



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

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

DATE: September 7, 2010

SUBJECT: Consideration of An Appeal of Limited Conditions of a Planning Commission Decision to Approve a Master Use Permit Amendment for Modifications to the Hours of Operation, Notification for Special Events, and Restaurant Operations and Denying a Height Variance at the Shade Hotel, Metlox Site, 1221 North Valley Drive.

RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing, uphold appeal and revise limited conditions, adopt Resolution No. 6275, and authorize the City Manager to approve an amendment to the Disposition and Development Agreement (DDA) as necessary. These actions revise the decision of the Planning Commission by approving the proposed Master Use Permit Amendment with minor modifications agreed upon by the applicant and neighborhood group, and denying a height variance.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of July 28, 2010, approved (4-0, 1 abstention) that three basic changes be made to the existing Master Use Permit for the site as follows: 1- Extension of hours of operation, 2- An increase to 125 people for special events (weddings, parties, etc.) without administrative approval, and 3- Full food service (breakfast, lunch and evening "small plates"). On August 11, 2010, the applicant and neighborhood group representative filed a joint application appealing the Planning Commission decision, and the item was scheduled for a public hearing before the City Council.

The subject establishment is a 38-room hotel (Shade) within the Metlox development that also includes an additional commercial component of approximately 63,850 square feet, a public Town Square, and a two-story subterranean public parking structure accommodating approximately 460 cars. The current Shade Use Permit approval allows hours until 11:00 PM daily for the lobby bar and outside terrace, 10:00 PM daily for the roof deck (skydeck), and 11:00 PM Thursday- Sunday and 12 midnight Friday-Saturday for special event use only for the

Courtyard, 99 people for special events without notification, and limited food service for guests. The Amendment allows the lobby bar and outside terrace to remain open until 12:00 midnight on Fridays, Saturdays, and Sundays before Memorial and Labor Day.

The Planning Commission conducted the public hearing at five meetings beginning in June 2009. The Commission heard from a number of neighbors and residents with concerns about the existing site operations and the proposal to extend the hours and modify the business operations. The main concern that the neighbors had was noise, particularly during the midweek and later at night. The Commission generally supported the requests for special events up to 125 people, and allowing increased food service, since the hearing process began. The initial request for dancing throughout the facility was withdrawn.

In order to fully address the noise issues, the applicant funded several noise impact and mitigation evaluation reports that were overseen by the City. The reports were produced by a qualified acoustical consultant. The Commission strove to balance all of the concerns raised by the neighbors and the Applicant. The resulting conditions required by the Planning Commission include the following:

1. A moveable glass panel Terrace enclosure that would roll down to address noise concerns for the southerly hotel patio area abutting the Metlox town square. The enclosure would be open during rain-free daytime/evening hours, and closed during late night operating hours.
2. A permanent glass double door entry vestibule at the front (east) entrance to the hotel that would prevent interior noise from escaping toward the neighboring residential area while people enter and exit the hotel.
3. Move the queuing area; where non-hotel guests wait to enter the hotel lounge, to the rear (west- away from residential) side of the building on Friday and Saturday nights at 9:00 PM.
4. A moveable acoustic corridor wall between the indoor lounge and outdoor central courtyard isolating noise from people entering and exiting the north/hotel side of the lounge during peak hours.
5. Maintain 10:00 PM closing hours on the skydeck, and require sound mitigation.
6. Move valet and taxi service away from the main entrance during peak hours except for hotel guests and disabled individuals.
7. Definitions of functions and events were added to the use permit. Functions such as New Year's Eve and Halloween were defined to be treated separately from private special events such as weddings and meetings, and were limited to twelve such events annually.
8. Closing definitions and details were created to clarify when and how certain areas are to be closed to non-hotel guests.
9. Alcohol marketing limitations were imposed in order to emphasize the hotel use as the primary use of the business.

A noise barrier on the rooftop deck extending 6-foot high above the existing height of the drink service area had also been considered as a potential mitigation item. This would have required variance approval, however, this measure was determined to be inappropriate by the Planning Commission and the corresponding variance request was denied.

One of the key issues discussed at the Planning Commission meetings was the closing hours for various venues and hours for the service of alcohol. The following is a summary of the current provisions, the Planning Commission approval and the proposed revisions. These are shown in Condition No. 23 of the Resolution.

SHADE HOTEL CLOSING HOURS		
LOCATION	CURRENT USE PERMIT	PLANNING COMMISSION APPROVAL
Zinc bar and Lounge	11:00 PM Daily Alcohol Service to stop 20 minutes prior to closing	<ul style="list-style-type: none"> • Sunday-Thursday- 11:00 PM • Fridays, Saturdays, and Sundays Before Memorial Day and Labor Day - 12:00 AM midnight Alcohol Service to stop 20 minutes prior to closing
Terrace/ Patio South Side		
Conference (Green) Room		
Interior Courtyard- (Currently Special Events Only)	<ul style="list-style-type: none"> • Sunday-Thursday- 11:00 PM • Friday-Saturday- 12:00 AM midnight No provisions for when alcohol service is to stop	Special Events- <ul style="list-style-type: none"> • Sunday-Thursday- 11:00 PM • Fridays, Saturdays, and Sundays Before Memorial Day and Labor Day - 12:00 AM midnight Functions- - 10:00 PM Daily
Skydeck/ Rooftop Deck	10:00 PM Daily Alcohol service to stop 60 minutes prior to closing	10:00 PM Daily Alcohol service to stop 60 minutes prior to closing PROPOSED- Alcohol service to stop 20 minutes prior to closing
New Years Eve closed for all venues as regulated by MBMC- currently 1:00 AM. PROPOSED- Skydeck to close at 10:00 pm New Years Eve		

The Master Use Permit Amendment approval was reached with substantial communication and cooperation between the applicant and residential neighbors’ group, however, subsequent to that approval, the applicant and neighbors agreed to revisions to some of the conditions controlling hotel operations. Therefore, a joint appeal application was filed requesting that the City Council revise the Planning Commission’s decision to reflect this modified condition language. These changes appear to be minor adjustments that the applicant, neighborhood group, and staff agree are appropriate. The attached draft City Council Resolution has been prepared by staff incorporating the following requested changes:

1. Clarification that valet patrons may use the front (east) entrance during peak late night hours (Conditions 12 and 31).
2. Roof deck alcohol service may continue until 20 minutes prior to the 10 PM closing time, instead of 60 minutes, and the skydeck may not remain open past 10 PM on New Years Eve (Condition 23).
3. Front valet restriction that allow guests/disabled access only, shall begin at 10 PM on peak late nights instead of 9 PM.

An additional issue for the City Council that results from the proposed Master Use Permit Amendment involves the Disposition and Development Agreement (DDA) for the overall Metlox Development. The existing document between the City and the developer contains language limiting restaurant uses on the site. Staff will review the DDA with the City Attorney and if it is determined that an amendment is required, staff requests that the City Council authorize the City Manager to amend the DDA, with Metlox LLC as necessary upon completion of this use permit amendment process.

ALTERNATIVES:

The alternatives to the staff recommendation include:

1. Conduct the public hearing and approve the Master Use Permit amendment approval by further revising and adopting Resolution No. 6275.
2. Conduct the public hearing and approve the Master Use Permit Amendment with more substantial changes to the Planning Commission approval as determined to be appropriate.
3. Conduct the public hearing and deny the Master Use Permit amendment approval.

Attachments:

- A. Resolution No. PC 10-05
- B. Joint Appeal Material
- C. Draft Resolution No. 6275
- D. P.C. Minutes excerpt, dated 7/28/10
- E. P.C. Staff Reports, dated 6/24/09, 7/22/09, 10/28/09, 5/12/10, 6/23/10, & 7/28/10
(reports/minutes available online at <http://www.citymb.info/Index.aspx?page=1367> or hard copy viewing at City Hall and MB Library)
- F. Late P.C. Staff Report Attachments
(hard copy viewing available at City Hall and MB Library)

c: Mike Zislis, Applicant Representative
Nate Hubbard, Neighbor Representative
Jon Tolkin, Tolkin Group
Glenn Loucks, Tolkin Group
Bryan Klatt, Police
Don Behrens and Tom Corbishley, Behrens and Associates

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RESOLUTION NO. PC 10-05

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING AN AMENDMENT TO A MASTER USE PERMIT FOR MODIFICATIONS TO THE PREVIOUSLY APPROVED HOURS OF OPERATION, NOTIFICATION FOR EVENTS, ALLOWING EXPANDED FOOD SERVICE OPERATIONS, APPROVING VARIOUS NOISE MITIGATION MEASURES AND DENYING A HEIGHT VARIANCE FOR A 6-FOOT HIGH ROOFDECK NOISE BARRIER AT THE SHADE HOTEL, METLOX SITE, 1221 NORTH VALLEY DRIVE (MANHATTAN INN OPERATING COMPANY, LLC- MICHAEL A. ZISLIS, PRESIDENT)

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

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

- A. Manhattan Inn Operating Company, LLC is seeking approval of an Amendment to a Master Use Permit, to allow modifications to the previous approval. The three changes include: 1- Extension of hours of operation to midnight on Fridays, Saturdays and Holidays, except for the skydeck and other minor exceptions, 2- An increase to 125 people for special events (weddings, parties, etc.) without administrative approval, and 3- Expanded public food service (breakfast, lunch and evening "small plates"). Additionally, a Variance for six-foot high noise barriers around the north, south and east sides of the roofdeck is requested. The current Use Permit approval allows hours until 11:00 PM daily for the lobby bar and outside terrace, 10:00 PM daily for the roofdeck, and 11:00 PM Thursdays-Sundays and 12 midnight Fridays-Saturdays for special event use only for the Courtyard, 99 people for special events without notification, and limited food service for guests.
- B. In accordance with the Master Use Permit approval an Amendment to the existing Master Use Permit approval is required for the project.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. An amendment to the Coastal Permit will not be required to be processed as there are no relevant coastal issues related to the subject application.
- D. An amendment to the Disposition and Development Agreement (DDA) may be required, and that action will be determined by the City Council.
- E. The applicant is Manhattan Inn Operating Company, LLC and the property owner is the City of Manhattan Beach.

EXHIBIT A
CCMtg. 9/7/10

- F. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. There have been no substantial changes to the project, the surrounding area or environment, and the facts associated with the project have not substantially changed from those evaluated in the certified EIR from an environmental impact viewpoint. Therefore, the existing certified EIR is a valid environmental document that adequately evaluates the environmental impacts of the project in accordance with the requirements of CEQA and the project can rely upon this document for conformance with the requirements of CEQA. The EIR includes Mitigation Measures and a Mitigation Monitoring and Reporting Program in accordance with the requirements of CEQA. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, the public Library, and on the City's website.
- G. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the property to the north is zoned Public and Semipublic, and the property to the east is zoned Open Space, with Single Family Residential and High Density Residential to the east past Valley and Ardmore Drives.
- H. The General Plan designation for the property is Downtown Commercial.
- I. The following is a summary of some of the key milestones for the Metlox site:
- 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
 - 1997/98- The City purchased the Metlox property to control development and Master Plan the site
 - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
 - December 1998- The City selected the Tolkin Group as a development partner
 - April 2001- The City Council certified the EIR
 - April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
 - July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council
 - November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit
 - February 2003- Groundbreaking for the Metlox parking structure
 - January 2004- Grand opening of public parking structure with 460 parking spaces
 - April 2004- Shade Hotel construction commenced
 - September 2004- Construction of the Metlox commercial buildings started
 - May 2005- Planning Commission approved first Shade Amendment Resolution No. PC 05-08
- J. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the first Amendment to the Master Use Permit for the Shade related to alcohol sales and special events at their regular scheduled meeting of May 25, 2005. The public hearing was advertised pursuant to applicable law and testimony was invited and received. The Planning Commission approved the Amendment for the Shade Hotel, and adopted Resolution No. PC 05-08. The facts and findings for that approval are included in the public records for that application.

- 1 K. The original approval (Condition No. 38- City Council Resolution No. 5770)
2 allowed full liquor in self-service in-room mini-bars and beer and wine throughout
3 the Hotel facility for guests only. The original approval (Condition No. 28- City
4 Council Resolution No. 5770) also limited special events (weddings, parties, etc.)
5 to 60 people.
- 6 L. Resolution No. PC 05-08 allowed a Type 47 ABC license for the site, allowing full
7 liquor open to the general public and including the service of food in order to allow
8 the in-room mini-bars (Type 66 license), as well as the portable bar with full liquor
9 (Type 66 license), all for on-site consumption of alcohol only, as well as events up
10 to 99 people without approval of a Temporary Use Permit.
- 11 M. Portions of Resolution No. PC 05-08 have been subject to interpretation as the
12 hotel is a 24-hour operation while the support services of the bar, food service and
13 events are limited. Additionally, there are no definitions of special events, guests,
14 closing, and other regulatory terms in the Resolution. One of the goals of this
15 Amendment is to clarify definitions and language in the Resolution.
- 16 N. The Planning Commission of the City of Manhattan Beach conducted public
17 hearings regarding the second Amendment to the Master Use Permit related to
18 the Shade Hotel on June 24, 2009, July 22, 2009, October 28, 2009, May 12,
19 2010 and June 23, 2010. The public hearings were advertised pursuant to
20 applicable law and testimony was invited and received, and on June 23, 2010, the
21 public hearing was closed. The Planning Commission directed staff to bring back
22 a final Resolution on July 28, 2010. The Planning Commission approved the
23 Amendment for the Shade Hotel, and adopted Resolution No. PC 10-05 on July
24 28, 2010.
- 25 O. Many neighboring residents at the Planning Commission public hearings have
26 testified that Shade Hotel makes noise that discomforts and irritates "reasonable
27 persons of normal sensitiveness," as defined by the subjective standard in
28 Chapter 5.48 of the MBMC. The Manhattan Beach Police Department has
29 responded to numerous calls regarding Shade disturbances, and for several of
30 these incidents, has reports and recordings of noise from Shade.
- 31 P. Neighbors indicate that taxi pickup and drop-off on Valley Drive create
32 disturbances. The City established a taxi stand on Morningside Drive at 13th Street
in 2009 to address this issue and has notified the taxi franchises of the
requirements.
- Q. Two independent acoustics analysis, dated October 21, 2009 and March 10,
2010, were conducted by Don Behrens & Associates under the direction of the
Community Development Department. The reports indicate that noise from the
Shade Hotel does not exceed the objective noise standards in the MBMC; the
subjective standard was not evaluated in the reports. Actual noise measurements
and continuous noise monitoring was conducted during large events on the
skydeck, courtyard, lounge and terrace. A three-dimensional modeling of noise to
assess various mitigation was also constructed. The reports proposed a variety of
mitigation options including a front (east) entry vestibule, terrace enclosure,
roofdeck extensions, west entry/exit/queue and taxi stand. Mitigation is
incorporated into the conditions based on these recommendations, public hearing
comments and Planning Commission discussion and direction.
- R. Due to the open design, the terrace has minimal soundproofing and constitutes a
major noise source, particularly for residents south of 12th Street. Additionally, the
front (east) entry door has noise leakage that impacts residents, largely between
12th and 13th Streets. The rooftop deck generates noise that largely impacts
residents north of 13th Street.

- S. The primary use and purpose of Shade Hotel, is and will continue to be, to serve the community as a hotel offering first-class accommodations to visitors. The hotel may also offer event, function, food, and other similar support functions as secondary uses. Marketing and promotion of the hotel shall be consistent with these uses as provided in the conditions.
- T. Potential noise and other neighborhood impacts from Entertainment, as defined and regulated in Chapter 4.20 of the MBMC, will be addressed through the administrative review of the annual Entertainment Permit. The Entertainment Permit is a separate administrative permit, and is regulated independently from the land use entitlement of the Master Use Permit and Master Use Permit Amendment.
- U. 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.
- V. This Resolution, upon its effectiveness, constitutes the Amendment to the Master Use Permit for the subject property. This Resolution supersedes Resolution No. PC 05-08. It also amends only Conditions No's 28 and 38 of Resolution No. 5770, all other conditions in that Resolution (unless amended by other separate Resolutions for other Metlox tenants) remain effective and in full force.
- W. Based upon State law, and MBMC Section 10.84.060, relating to the Amendment to the Master Use Permit application for the proposed project, the following findings are hereby made:
 - 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 since, the proposed amendments to the use permit for Shade Hotel is consistent with the Commercial Downtown designation. This area is specifically designated for commercial activity and services for residents and out-of-town visitors. Several other business operations in the area already engage in similar uses. The project provides a full range of services needed by residents of, and visitors to, the city and region. The project will strengthen the City's economic base, but also protect small businesses that serve city residents. The project protects surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts through the conditions of approval which require physical noise mitigation and operational revisions.
 - 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 since, the proposed amended use permit is consistent with the General Plan for the Commercial Downtown designation, because it is granting additional privileges to already approved uses that will result in minimal fundamental change of those uses. Amending the use permit 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 location of the hotel facility. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the city, due to the conditions. Additionally, the project is consistent with the following General Plan Goals and Policies:

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GOALS AND POLICIES: LAND USE

Policy LU-5.2: Work with all commercial property owners bordering residential areas to mitigate impacts and use appropriate landscaping and buffering of residential neighborhoods.

Policy LU-5.4: Discourage the outdoor commercial and industrial use of property adjacent to residential use.

Policies LU-5.7, 6.4 and 7.6: Recognize the unique qualities of mixed-use areas, and balance the needs of both the residential and commercial uses.

Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.

Policy 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-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.

Policy 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.

GOALS AND POLICIES: NOISE

Goal N-2: Incorporate noise considerations into land use planning decisions.

Policy N-2.2: Ensure acceptable noise levels near residences, schools, medical facilities, and other noise-sensitive areas.

Policy N-2.5: Require that the potential for noise be considered when approving new development to reduce the possibility of adverse effects related to noise generated by new development, as well as impacts from surrounding noise generators on the new development.

Policy N-3.4: Recognize in the Noise Ordinance that nighttime noise levels create a greater sensitivity than do daytime noise levels.

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 since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the implementation of the new conditions. The proposed amended use permit is consistent with the already approved primary and secondary uses of the facility.

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. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the project will all be complied with. Conditions to conform to applicable Code standards will apply. Because the proposed amended use permit will not alter the fundamental use, purpose or character of the hotel facility, and because there will not be any change in occupancy or intensification of the property, the proposed amended use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.
- X. Based upon State law, and MBMC Section 10.84.060, relating to the Variance application for the proposed project, the following findings CAN NOT be made:
1. Because of special circumstances or conditions applicable to the subject property—including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions—strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;
 2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and
 3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit Amendment, subject to the following conditions, and DENIES the subject Variance.

Definitions

1. Closed. Music off and lights turned up in all public areas. Terrace, courtyard, skydeck, Zinc bar and Lobby, and all public areas vacated, except for staff throughout, as well as registered guests in the Lobby only. All members of the general public, including special event and function guests who are not registered guests, shall be out of the hotel. In the Zinc bar and lobby, terrace, courtyard, skydeck and all public areas, without exception, on or before closing, staff shall collect all glasses, bottles, cans, and drinks, including from registered guests, to comply with the ABC definition of closed, as "no sale, service, or consumption of alcoholic beverages."
2. Special event. An event in which an unaffiliated third party under contract has exclusive use of one or more venues or a portion of a venue. Attendees at special events shall have an invitation from the host client. The general public may not join nor participate in special events other than non-profit or charitable events such as Chamber events, Downtown Open House and Charity Education Wine Events.
3. Function. A "themed" function held periodically for the general public, up to twelve (12) per year, such as, Oktoberfest, Halloween, New Years, Valentines, St Patrick's Day, AVP, Surf Festival, Mothers Day, Fathers Day and Six-Man. Functions shall not include "spillover" of the general public from day-to-day operations from the Zinc bar and lobby, or any other area, into the Courtyard.

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4. Registered Guest. A guest who occupies a room overnight. Privileges for registered guests extend to a limited number of their invitees only, and not the general public.

5. Invitee. Invited guests of a registered guest.

6. Marketing and Promotion. Any marketing, promotion or advertising, using any media, including but not limited to, fliers, newspapers, radio-TV, Internet, social networking sites, email to the general public and the Shade website. This does not include marketing and promotions to customers who have specifically signed up to be included on a Shade mailing, e-mailing or similar mass notification list.

7. Background music. Sound intensity anywhere in a room or venue not greater than 65 dBa.

8. Public Areas. Any public area or space where sales, service and consumption of alcoholic beverages is permitted.

Entertainment and Noise

9. General- The Director of Community Development shall not reduce restrictions or conditions as set forth in this Amendment, without approval by the Planning Commission, with notice to property owners within a 300 foot radius with standard notice procedures.

10. Entertainment and amplified sound- All amplified music and sound shall use the house system only and shall be limited to background music with the following exceptions;

- A. The Courtyard may have one annual function, for example, Oktoberfest, with live amplified entertainment, from 4 to 8 PM.
- B. The Courtyard may use amplification, other than the house system for background music and microphones, for wedding ceremonies only prior to 9 PM and not to exceed 30 minutes in length;
- C. The Zinc bar and lobby may have amplified DJ's, live entertainment or music, other than background music. All doors leading to the outside shall remain closed.

11. Terrace enclosure- A deployable means (glass or similar panels that roll or slide down from the top portion of the terrace) shall entirely enclose the terrace, including a closable south entrance that meets Building Safety and other City requirements. Existing walls shall have gaps acoustically sealed. The ceiling of the terrace shall have sound-absorbing fixtures installed. The enclosure and entire terrace area shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies for the fully enclosed terrace. The terrace shall remain open at all times except, between 9 PM and 6 AM each day and when raining. Shade staff shall be responsible for enclosing and opening the terrace daily. If the terrace has drapes or other decorative features to enclose the area, they may only be closed during special events and when raining, or for shade.

12. Front (East) Entry Vestibule- A permanent front entrance vestibule, bonded and sealed to the building, shall be constructed to enclose the front doors. The vestibule shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies. The vestibule shall also meet all Building Safety and other City requirements, including but not limited to emergency egress and disabled access. Between 9:00 PM and 6:00 AM on Fridays, Saturdays, New Years Eve and Sundays before Memorial Day and Labor Day, the following conditions shall apply: a) the front entrance doors shall be closed and only operable through the interlock/double door vestibule; b) the hotel clerk or other hotel employee shall only allow passage for disabled, or registered hotel guests, and all others shall use the west entrance; c) the vestibule may also be operable with a hotel room key, and; d) only one set of doors may be opened at any time.

13. Courtyard- Only special events and functions may use the courtyard. No general public gatherings permitted in the courtyard, and no "spillover" from the Zinc bar and lobby or other public areas.

14. Courtyard-bar corridor wall- A new acoustic moveable wall shall be installed to separate the interior courtyard from the corridor north of the lobby bar. After 9 PM Friday, Saturday, New Years Eve, and Sundays before Memorial and Labor Day, and any day if the entry/exit queue is greater than 5 people for more than 15 minutes, both corridor walls (adjacent to the courtyard and the lobby bar) shall remain closed for the rest of the night, unless there is a special event or function using both the Courtyard and Zinc bar/ lobby. Whenever the Zinc bar and lounge has amplified sound, other than background music, after 9 PM the north acoustic wall shall remain closed. There shall be no sale, service or consumption of alcohol in the corridor when one or both moveable walls are closed.

15. Skydeck- All amplified music and sound, including DJ's for weddings only, shall use the house system only. No live amplified music is permitted. Amplified sound is prohibited on the skydeck after 9 PM, except for background music. The hotel shall relocate house speakers nearer to floor-level, not atop glass windscreen posts. The location and number of the speakers shall be based on the recommendations from an audio specialist in cooperation with the City's noise consultant, and shall be designed to mitigate off-site noise impacts and maximize efficiency on-site.

16. Sound audibility- The volume of music, entertainment, group singing, or voice, whether or not amplified, may not be audible outside of the hotel facilities to the following extent. For any length of time, except for the one function referenced in Condition No. 10 A., the noise may not dominate the background ambient noise, nor disturb surrounding residents, as defined in the MBMC noise regulations. After cessation of alcohol service in any venue or for any event or function, only background music is permitted.

17. Temporary Use Permit- Special events and functions of more than 125 attendees require City notice and a temporary use permit.

18. Entertainment Permit- Each year, the hotel shall apply for an annual entertainment permit on or before March 1, in accordance with Condition 40 in Resolution 5770, Metlox Master Use Permit.

19. Resident notification- The hotel shall e-mail to residents who sign-up, the schedule of special events and functions sent to the City, excluding client information.

20. Balconies- A permanent notice shall be placed on the doors to the hotel room balconies informing guests to be respectful of the neighbors at all times and to make no noise on the balconies or outside after 10:00 PM.

21. Exterior Doors- All exterior doors to the public areas of the hotel facility shall be closed after 9:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and daily for all special events and functions.

22. Noise Compliance Verification- The privileges within this Use Permit for extension of hours of operation shall only be granted after the installation of the mitigation measures, implementation of the improvements and modifications to the operations of the facility. After completion of these measures, the Community Development Director, in cooperation with the Noise consultant, shall determine if the measures are effective and meeting the objective noise criteria and mitigation standards described in the previously submitted Noise reports. The neighbor representative may have input on the location, days and hours of the monitoring for any follow-up noise studies. The privileges and rights within this Use Permit shall not be effective unless the objective noise criteria and dBA reductions, as described in the previously submitted Noise reports, are achieved.

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23. Hours for alcohol service-

Alcohol service restricted to venues below; not permitted in any other public areas.		
<u>Venue/Event/Services</u>	<u>Venue Closing Time (Closed); Open 6 AM- per Cond. 39, Reso. 5770</u>	<u>End of Alcohol Service. (Before Closed in, Minutes)</u>
Zinc bar and lounge, Fridays- Saturdays and Sundays before Memorial Day and Labor Day	Midnight	20
Zinc bar and lounge, Sundays- Thursdays	11 PM	20
Terrace	11 PM Sun-Thu; midnight Fri- Sat and Sundays before Memorial Day and Labor Day	20
Conference (Green) Room(s)	11 PM Sun-Thu; midnight Fri- Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Special events	11 PM Sun-Thu; midnight Fri- Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Functions	10 PM	20
Skydeck	10 PM	60

Note 1. New Years Eve closed for all venues as regulated by MBMC- currently 1:00 AM

General Conditions

24. Substantial Compliance- The proposed changes shall be in substantial conformance with the plans submitted, and the project description as approved by the Planning Commission, subject to any special conditions set forth in this amendment. The design, specifications and layout of sound mitigation measures is subject to further review and approval by the Director of Community Development, and the Planning Commission as determined to be necessary by the Director of Community Development. Any substantial deviation from the approved plans, or project description, shall have review and approval by the Planning Commission.

25. Occupancy Limits- Required occupancy loads shall not be exceeded and required access and exits shall remain unobstructed at all times. The exact occupancy numbers stated below are required to be posted on the site:

- Roof Deck – 92
- Lobby Bar (Zinc Lounge) – 159
- Patio to south of Zinc Lounge- 47
- Courtyard Area – 151
- Conference Room - 44

26. Terrace Use- The terrace shall not be a conditioned interior space as defined by the Building Code.

27. Public property clean up- The Shade staff shall monitor the area so that Shade patrons do not litter adjacent public property, including but not limited to the sidewalk, street, Metlox Town Square and all other public areas at Metlox. The hotel staff shall police and promptly clean up all areas with any litter and spills after all special events and functions. Public Works may bill Shade for any special event and function related public property clean-up costs.

Ingress-Egress Control

28. Valet- The Shade valet service shall relocate away from the Shade east or south entrances after 9:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after 9:00 PM for special events and functions any day of the week. Everyone, except for registered hotel guests and disabled, shall be prohibited from picking up their vehicles from the Shade front (east) entrance. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian accessways free and accessible to the general public, subject to approval of the Director of Community Development.

29. Taxis- Hotel employees shall discourage the public from using taxis on Valley Drive after 9 PM. Taxi pickups and drop-offs for the general public at the Shade entrance shall be prohibited after 9 PM. Everyone, except for registered hotel guests and disabled, shall be directed to the taxi stand on Morningside Drive and 13th Street, after 9 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve and after special events and functions any day of the week. Hotel staff may call for a taxi to pickup registered guests and disabled at the entrance at any time.

30. Entry-Exit Queue- The hotel shall locate the entry and exit queue at the west side of the building as required in Condition 31, but the queue shall not extend past the south or north sides of the building.

31. West entry-exit- After 9:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after 9:00 PM for special events, and functions, everyone except registered hotel guests and disabled shall use the west door, opening on to the Metlox Plaza, to enter and exit the hotel. The front east door that opens onto Valley Drive, and the south terrace doors shall not be used for entry and exit at these times, except registered hotel guests and disabled may use the front east door.

On Sundays through Thursdays, if more than five patrons are waiting for more than 15 minutes to enter, staff shall establish the queue at the west side of the building for the rest of the night. Employees shall close and monitor the front (east) entry door as required to ensure access only by registered hotel guests and the disabled, and that everyone else uses the west door. Employees shall remind the patrons as they depart to respect the neighbors and to minimize noise and disturbance.

The hours and days may be administratively modified in the annual entertainment permit to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.

32. Staff parking- The hotel shall instruct their employees, contract employees, contractors servicing events, and all others providing services to the Hotel to not park on the public streets east of Valley Drive, in the residential areas or in Parking Lot 8 (the lot in the median of Valley and Ardmore). All parking shall be on the Metlox site or in other public parking structures or lots such as Lot 3.

33. Buses- Any large transportation such as buses, shuttles, or recreational vehicles shall not use the hotel drop off area on the east side after 9 PM daily, but shall load and unload off of Morningside Drive or 13th Street. The vehicles shall observe and comply with all parking regulations in these areas.

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34. Town Square- Special Events and functions may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The applicant shall work cooperatively with the Management Co, landlord, any security personnel and the City to ensure that Shade facility patrons are not gathering in the Town Square and public areas outside of the hotel and disturbing the neighbors after the hotel public areas are close. The doorman or other Shade employee shall ensure that patrons do not leave the hotel facility premises with alcoholic beverages.

35. Front Drop Off- The drop off driving lane, in front of the hotel off Valley Drive, including the area at Valley and "12th Walk" by the bollards shall remain open, unobstructed and free of vehicles at all times, except for vehicles transitioning during valet drop off and pick up.

Food service

36. Food Service- The hotel may serve food in all public areas during the hours consistent with the service of alcohol. This shall not preclude 24-hour room service.

Marketing

37. Marketing-General- Any marketing and promotion of the facility will be first and foremost as a hotel use. The availability of the hotel for special events and functions shall not be marketed as the primary use. The hotel website may have pages that describe various venues, including costs and availability, but may not advertise pool parties.

38. Marketing-Bar and Functions- The hotel shall not advertise, market or promote drink or "happy hour" type of specials. Primary advertising and marketing shall be for the hotel, food and special events. Marketing and promotion for the bar and functions shall be secondary. The Zinc bar/lounge, terrace, and Skydeck will not be exclusively marketed to the general public as separate hospitality attractions.

39. Menu Posting- The hotel may post drink or food menus or signage outside of the hotel, with the exception of no posting of any drink or "happy hour" type of specials.

Procedural

40. Review. All provisions of the Master Use Permit Amendment are subject to review by the Community Development Department 6 months after completion of improvements and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Master Use Permit Amendment for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

41. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.

42. Fish and Game. 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.

43. Lapse of Approval. The Master Use Permit Amendment shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.

44. 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.

45. Effective Date. Unless appealed to the City Council, the subject Master Use Permit Amendment shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.

46. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.

47. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.

48. 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. 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.

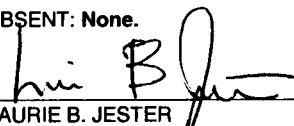
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **July 28, 2010**, and that said Resolution was adopted by the following vote:

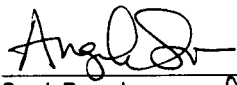
AYES: Andreani, Lesser, Seville-Jones, Vice-Chairperson Paralusz.

NOES: None.

ABSTAIN: Fasola.

ABSENT: None.


LAURIE B. JESTER
Acting Secretary to the Planning Commission


Sarah Boeschen
Recording Secretary *for Sarah Boeschen*



MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

2010
CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only

Date Submitted:
Received By:
F&G Check Submitted:

1221 N. Valley Dr
Project Address

Legal Description

CD
General Plan Designation

CD 3
Zoning Designation Area District

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

Project located in Appeal Jurisdiction

- Major Development (Public Hearing required)
- Minor Development (Public Hearing, if requested)

Project not located in Appeal Jurisdiction

- 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 _____
- Environmental Assessment _____
- Minor Exception _____
- Subdivision (Map Deposit)4300 _____
- Subdivision (Tentative Map) _____
- Subdivision (Final) _____
- Subdivision (Lot Line Adjustment) _____
- Use Permit (Residential) _____
- Use Permit (Commercial) _____
- 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: \$ 465⁰⁰ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: _____ Date Paid: _____ Cashier: _____

Applicant(s)/Appellant(s) Information

Shade Hotel (Michael Zislis)
Name

1221
Mailing Address

Michael Zislis / Nathaniel Hubbard
Applicant(s)/Appellant(s) Relationship to Property

(310) 704-8507 310 345 1301
Contact Person (include relation to applicant/appellant) Phone number / e-mail

1221 N. Valley Dr 1300 N. Ardmore Ave
Address

[Signature] [Signature]
Applicant(s)/Appellant(s) Signature Phone number

neighbor
rec

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

Revise conditions 12, 23, 28 & 31
Resolution NO PC, 10-05, as agreed by
neighbors & shade hotel

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)

EXHIBIT B
CC MH 9/7/10

Offices of John A.

Strain

A Professional Corporation

*Certified Specialist Taxation Law

California Board of Legal Specialization

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T: 209-832-8663
aziegler@ustaxlawyer.com

August 11, 2010

8867.022

Ms. Laurie B. Jester
Community Development Acting Director
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266

Re: *Shade Hotel*
Master Use Permit Amendment

Dear Laurie:

After the Planning Commission met on July 28 and approved its Resolution (PC-05) related to amendments to the Master Use Permit applying to Shade Hotel, the principals considered whether to appeal that Resolution. Everyone's preference was to have this matter fully resolved. However, there were a few details that we felt needed attention.

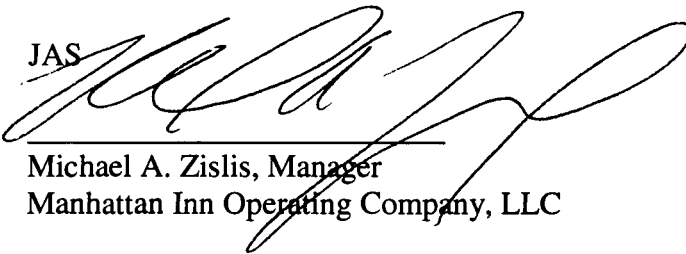
With your assistance and guidance, Michael Zislis (on behalf of Shade Hotel) and Nate Hubbard (continuing his role as the principal representative of neighbors) have met and discussed these details. Together, they have reached a mutually acceptable resolution that merely involves a few minor changes to the Resolution as approved.

It is our understanding that adoption of this Resolution with these changes now requires an appeal to the City Council. Accordingly, the parties are filing that appeal jointly with the expectation and intention that this matter will be dealt with summarily by the City Council. They are both signing this letter to be included with the appeal as evidence of that agreement.

Thank you, Laurie, for your tireless efforts throughout this long process.

Best Regards

JAS


Michael A. Zislis, Manager
Manhattan Inn Operating Company, LLC

John A. Strain


Nate Hubbard
Neighbors' Representative

**SHADE HOTEL RESOLUTION NO. PC 10-05:
PROPOSED REVISIONS FOR APPEAL
CITY COUNCIL MEETING 9-7-10**

12. Front (East) Entry Vestibule- A permanent front entrance vestibule, bonded and sealed to the building, shall be constructed to enclose the front doors. The vestibule shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies. The vestibule shall also meet all Building Safety and other City requirements, including but not limited to emergency egress and disabled access. Between 9:00 PM and 6:00 AM on Fridays, Saturdays, New Years Eve and Sundays before Memorial Day and Labor Day, the following conditions shall apply: a) the front entrance doors shall be closed and only operable through the interlock/double door vestibule; b) the hotel clerk or other hotel employee shall only allow passage for disabled, ~~or~~ registered hotel guests and valet patrons as permitted in Condition #28, and all others shall use the west entrance; c) the vestibule may also be operable with a hotel room key, and; d) only one set of doors may be opened at any time.

23. Hours for alcohol service

Alcohol service restricted to venues below; not permitted in any other public areas.		
<u>Venue/Event/Services</u>	<u>Venue Closing Time (Closed); Open 6 AM- per Cond. 39, Reso. 5770</u>	<u>End of Alcohol Service, (Before Closed _____ in, Minutes)</u>
Zinc bar and lounge, Fridays-Saturdays and Sundays before Memorial Day and Labor Day	Midnight	20
Zinc bar and lounge, Sundays-Thursdays	11 PM	20
Terrace	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Conference (Green) Room(s)	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Special events	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Functions	10 PM	20
Skydeck	10 PM	60 20

Note 1. New Years Eve closed for all venues as regulated by MBMC- currently 1:00 AM; except the skydeck shall close at 10:00 PM

**SHADE HOTEL RESOLUTION NO. PC 10-05:
PROPOSED REVISIONS FOR APPEAL
CITY COUNCIL MEETING 9-7-10**

Ingress-Egress Control

28. Valet- The Shade valet service shall relocate away from the Shade east or south entrances after ~~10:00 PM 9:00 PM~~ on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after ~~10:00 PM 9:00 PM~~ for special events and functions any day of the week. Everyone, except for registered hotel guests and disabled, shall be prohibited from picking up their vehicles from the Shade front (east) entrance. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian accessways free and accessible to the general public, subject to approval of the Director of Community Development.

31. West entry-exit- After 9:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after 9:00 PM for special events, and functions, everyone except registered hotel guests and disabled shall use the west door, opening on to the Metlox Plaza, to enter and exit the hotel. The front east door that opens onto Valley Drive, and the south terrace doors shall not be used for entry and exit at these times, except registered hotel guests, and disabled and valet patrons as permitted in Condition #28, may use the front east door.

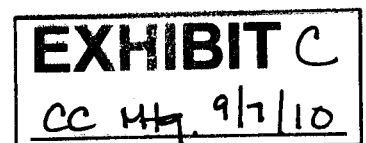
RESOLUTION NO. 6275

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH UPHOLDING AN APPEAL OF LIMITED CONDITIONS OF A PLANNING COMMISSION APPROVAL FOR AN AMENDMENT TO A MASTER USE PERMIT FOR MODIFICATIONS TO THE PREVIOUSLY APPROVED HOURS OF OPERATION, NOTIFICATION FOR EVENTS, ALLOWING EXPANDED FOOD SERVICE OPERATIONS, APPROVING VARIOUS NOISE MITIGATION MEASURES AND DENYING A HEIGHT VARIANCE FOR A 6-FOOT HIGH ROOFDECK NOISE BARRIER AT THE SHADE HOTEL, METLOX SITE, 1221 NORTH VALLEY DRIVE (MANHATTAN INN OPERATING COMPANY, LLC- MICHAEL A. ZISLIS, PRESIDENT)

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach, California, hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted public hearings regarding the second Amendment to the Master Use Permit related to the Shade Hotel on June 24, 2009, July 22, 2009, October 28, 2009, May 12, 2010 and June 23, 2010. The public hearings were advertised pursuant to applicable law and testimony was invited and received, and on June 23, 2010, the public hearing was closed. The Planning Commission directed staff to bring back a final Resolution on July 28, 2010. The Planning Commission approved the Amendment for the Shade Hotel, and adopted Resolution No. PC 10-05 on July 28, 2010.
- B. On August 11, 2010, the applicant, Shade Hotel, and the neighborhood representative, Nate Hubbard, filed a joint appeal of limited conditions of the Planning Commission approval. The Shade and neighbors have agreed to minor revisions to conditions 12, 23, 28 and 31. The conditions relate to the valet service and skydeck.
- C. The City Council of the City of Manhattan Beach conducted a public hearing on September 7, 2010 to consider the appeal. Said hearing was advertised pursuant to applicable law, and testimony was invited and received.
- D. At the City Council hearing the City Council upheld the appeal and upheld the Planning Commission approval of the project with minor modifications to conditions 12, 23, 28 and 31.
- E. Manhattan Inn Operating Company, LLC is seeking approval of an Amendment to a Master Use Permit, to allow modifications to the previous approval. The three changes include: 1- Extension of hours of operation to midnight on Fridays, Saturdays and Holidays, except for the skydeck and other minor exceptions, 2- An increase to 125 people for special events (weddings, parties, etc.) without administrative approval, and 3- Expanded public food service (breakfast, lunch and evening "small plates"). Additionally, a Variance for six-foot high noise barriers around the north, south and east sides of the roofdeck is requested. The current Use Permit approval allows hours until 11:00 PM daily for the lobby bar and outside terrace, 10:00 PM daily for the roofdeck, and 11:00 PM Thursdays-Sundays and 12 midnight Fridays-Saturdays for special event use only for the Courtyard, 99 people for special events without notification, and limited food service for guests.
- F. In accordance with the Master Use Permit approval an Amendment to the existing Master Use Permit approval is required for the project.
- G. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. An amendment to the Coastal Permit will not be required to be processed as there are no relevant coastal issues related to the subject application.



- H. An amendment to the Disposition and Development Agreement (DDA) may be required, and that action will be determined by the City Council.
- I. The applicant is Manhattan Inn Operating Company, LLC and the property owner is the City of Manhattan Beach.
- J. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. There have been no substantial changes to the project, the surrounding area or environment, and the facts associated with the project have not substantially changed from those evaluated in the certified EIR from an environmental impact viewpoint. Therefore, the existing certified EIR is a valid environmental document that adequately evaluates the environmental impacts of the project in accordance with the requirements of CEQA and the project can rely upon this document for conformance with the requirements of CEQA. The EIR includes Mitigation Measures and a Mitigation Monitoring and Reporting Program in accordance with the requirements of CEQA. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, the public Library, and on the City's website.
- K. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the property to the north is zoned Public and Semipublic, and the property to the east is zoned Open Space, with Single Family Residential and High Density Residential to the east past Valley and Ardmore Drives.
- L. The General Plan designation for the property is Downtown Commercial.
- M. The following is a summary of some of the key milestones for the Metlox site:
 - 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
 - 1997/98- The City purchased the Metlox property to control development and Master Plan the site
 - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
 - December 1998- The City selected the Tolkin Group as a development partner
 - April 2001- The City Council certified the EIR
 - April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
 - July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council
 - November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit
 - February 2003- Groundbreaking for the Metlox parking structure
 - January 2004- Grand opening of public parking structure with 460 parking spaces
 - April 2004- Shade Hotel construction commenced
 - September 2004- Construction of the Metlox commercial buildings started
 - May 2005- Planning Commission approved first Shade Amendment Resolution No. PC 05-08
- N. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the first Amendment to the Master Use Permit for the Shade related to alcohol sales and special events at their regular scheduled meeting of May 25, 2005. The public hearing was advertised pursuant to applicable law and testimony was invited and received. The Planning Commission approved the Amendment for the Shade Hotel, and adopted Resolution No. PC 05-08. The facts and findings for that approval are included in the public records for that application.

- O. The original approval (Condition No. 38- City Council Resolution No. 5770) allowed full liquor in self-service in-room mini-bars and beer and wine throughout the Hotel facility for guests only. The original approval (Condition No. 28- City Council Resolution No. 5770) also limited special events (weddings, parties, etc.) to 60 people.
- P. Resolution No. PC 05-08 allowed a Type 47 ABC license for the site, allowing full liquor open to the general public and including the service of food in order to allow the in-room mini-bars (Type 66 license), as well as the portable bar with full liquor (Type 66 license), all for on-site consumption of alcohol only, as well as events up to 99 people without approval of a Temporary Use Permit.
- Q. Portions of Resolution No. PC 05-08 have been subject to interpretation as the hotel is a 24-hour operation while the support services of the bar, food service and events are limited. Additionally, there are no definitions of special events, guests, closing, and other regulatory terms in the Resolution. One of the goals of this Amendment is to clarify definitions and language in the Resolution.
- R. Many neighboring residents at the Planning Commission public hearings have testified that Shade Hotel makes noise that discomforts and irritates "reasonable persons of normal sensitiveness," as defined by the subjective standard in Chapter 5.48 of the MBMC. The Manhattan Beach Police Department has responded to numerous calls regarding Shade disturbances, and for several of these incidents, has reports and recordings of noise from Shade.
- S. Neighbors indicate that taxi pickup and drop-off on Valley Drive create disturbances. The City established a taxi stand on Morningside Drive at 13th Street in 2009 to address this issue and has notified the taxi franchises of the requirements.
- T. Two independent acoustics analysis, dated October 21, 2009 and March 10, 2010, were conducted by Don Behrens & Associates under the direction of the Community Development Department. The reports indicate that noise from the Shade Hotel does not exceed the objective noise standards in the MBMC; the subjective standard was not evaluated in the reports. Actual noise measurements and continuous noise monitoring was conducted during large events on the skydeck, courtyard, lounge and terrace. A three-dimensional modeling of noise to assess various mitigation was also constructed. The reports proposed a variety of mitigation options including a front (east) entry vestibule, terrace enclosure, roofdeck extensions, west entry/exit/queue and taxi stand. Mitigation is incorporated into the conditions based on these recommendations, public hearing comments and Planning Commission discussion and direction.
- U. Due to the open design, the terrace has minimal soundproofing and constitutes a major noise source, particularly for residents south of 12th Street. Additionally, the front (east) entry door has noise leakage that impacts residents, largely between 12th and 13th Streets. The rooftop deck generates noise that largely impacts residents north of 13th Street.
- V. The primary use and purpose of Shade Hotel, is and will continue to be, to serve the community as a hotel offering first-class accommodations to visitors. The hotel may also offer event, function, food, and other similar support functions as secondary uses. Marketing and promotion of the hotel shall be consistent with these uses as provided in the conditions.
- W. Potential noise and other neighborhood impacts from Entertainment, as defined and regulated in Chapter 4.20 of the MBMC, will be addressed through the administrative review of the annual Entertainment Permit. The Entertainment Permit is a separate administrative permit, and is regulated independently from the land use entitlement of the Master Use Permit and Master Use Permit Amendment.
- X. 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.

- Y. This Resolution, upon its effectiveness, constitutes the Amendment to the Master Use Permit for the subject property. This Resolution supersedes Resolution No. PC 05-08 and Resolution No. PC 10-05. It also amends only Conditions No's 28 and 38 of Resolution No. 5770, all other conditions in that Resolution (unless amended by other separate Resolutions for other Metlox tenants) remain effective and in full force.
- Z. Based upon State law, and MBMC Section 10.84.060, relating to the Amendment to the Master Use Permit application for the proposed project, the following findings are hereby made:
 - 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 since, the proposed amendments to the use permit for Shade Hotel is consistent with the Commercial Downtown designation. This area is specifically designated for commercial activity and services for residents and out-of-town visitors. Several other business operations in the area already engage in similar uses. The project provides a full range of services needed by residents of, and visitors to, the city and region. The project will strengthen the City's economic base, but also protect small businesses that serve city residents. The project protects surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts through the conditions of approval which require physical noise mitigation and operational revisions.
 - 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 since, the proposed amended use permit is consistent with the General Plan for the Commercial Downtown designation, because it is granting additional privileges to already approved uses that will result in minimal fundamental change of those uses. Amending the use permit 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 location of the hotel facility. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the city, due to the conditions. Additionally, the project is consistent with the following General Plan Goals and Policies:

GOALS AND POLICIES: LAND USE

Policy LU-5.2: Work with all commercial property owners bordering residential areas to mitigate impacts and use appropriate landscaping and buffering of residential neighborhoods.

Policy LU-5.4: Discourage the outdoor commercial and industrial use of property adjacent to residential use.

Policies LU-5.7, 6.4 and 7.6: Recognize the unique qualities of mixed-use areas, and balance the needs of both the residential and commercial uses.

Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.

Policy 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-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.

Policy 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.

GOALS AND POLICIES: NOISE

Goal N-2: Incorporate noise considerations into land use planning decisions.

Policy N-2.2: Ensure acceptable noise levels near residences, schools, medical facilities, and other noise-sensitive areas.

Policy N-2.5: Require that the potential for noise be considered when approving new development to reduce the possibility of adverse effects related to noise generated by new development, as well as impacts from surrounding noise generators on the new development.

Policy N-3.4: Recognize in the Noise Ordinance that nighttime noise levels create a greater sensitivity than do daytime noise levels.

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 since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the implementation of the new conditions. The proposed amended use permit is consistent with the already approved primary and secondary uses of the facility.
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. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the project will all be complied with. Conditions to conform to applicable Code standards will apply. Because the proposed amended use permit will not alter the fundamental use, purpose or character of the hotel facility, and because there will not be any change in occupancy or intensification of the property, the proposed amended use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.

A.A. Based upon State law, and MBMC Section 10.84.060, relating to the Variance application for the proposed project, the following findings CAN NOT be made:

1. Because of special circumstances or conditions applicable to the subject property—including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions—strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;
2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and
3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit Amendment, subject to the following conditions, and DENIES the subject Variance.

Definitions

1. Closed. Music off and lights turned up in all public areas. Terrace, courtyard, skydeck, Zinc bar and Lobby, and all public areas vacated, except for staff throughout, as well as registered guests in the

Lobby only. All members of the general public, including special event and function guests who are not registered guests, shall be out of the hotel. In the Zinc bar and lobby, terrace, courtyard, skydeck and all public areas, without exception, on or before closing, staff shall collect all glasses, bottles, cans, and drinks, including from registered guests, to comply with the ABC definition of closed, as "no sale, service, or consumption of alcoholic beverages."

2. Special event. An event in which an unaffiliated third party under contract has exclusive use of one or more venues or a portion of a venue. Attendees at special events shall have an invitation from the host client. The general public may not join nor participate in special events other than non-profit or charitable events such as Chamber events, Downtown Open House and Charity Education Wine Events.

3. Function. A "themed" function held periodically for the general public, up to twelve (12) per year, such as, Oktoberfest, Halloween, New Years, Valentines, St Patrick's Day, AVP, Surf Festival, Mothers Day, Fathers Day and Six-Man. Functions shall not include "spillover" of the general public from day-to-day operations from the Zinc bar and lobby, or any other area, into the Courtyard.

4. Registered Guest. A guest who occupies a room overnight. Privileges for registered guests extend to a limited number of their invitees only, and not the general public.

5. Invitee. Invited guests of a registered guest.

6. Marketing and Promotion. Any marketing, promotion or advertising, using any media, including but not limited to, fliers, newspapers, radio-TV, Internet, social networking sites, email to the general public and the Shade website. This does not include marketing and promotions to customers who have specifically signed up to be included on a Shade mailing, e-mailing or similar mass notification list.

7. Background music. Sound intensity anywhere in a room or venue not greater than 65 dBa.

8. Public Areas. Any public area or space where sales, service and consumption of alcoholic beverages is permitted.

Entertainment and Noise

9. General. The Director of Community Development shall not reduce restrictions or conditions as set forth in this Amendment, without approval by the Planning Commission, with notice to property owners within a 300 foot radius with standard notice procedures.

10. Entertainment and amplified sound. All amplified music and sound shall use the house system only and shall be limited to background music with the following exceptions;

- A. The Courtyard may have one annual function, for example, Oktoberfest, with live amplified entertainment, from 4 to 8 PM.
- B. The Courtyard may use amplification, other than the house system for background music and microphones, for wedding ceremonies only prior to 9 PM and not to exceed 30 minutes in length;
- C. The Zinc bar and lobby may have amplified DJ's, live entertainment or music, other than background music. All doors leading to the outside shall remain closed.

11. Terrace enclosure. A deployable means (glass or similar panels that roll or slide down from the top portion of the terrace) shall entirely enclose the terrace, including a closable south entrance that meets Building Safety and other City requirements. Existing walls shall have gaps acoustically sealed. The ceiling of the terrace shall have sound-absorbing fixtures installed. The enclosure and entire terrace area shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies for the fully enclosed terrace. The terrace shall remain open at all times except, between 9 PM and 6 AM each day and when raining. Shade staff shall be responsible for enclosing and opening the terrace daily. If the terrace has drapes or other decorative features to enclose the area, they may only be closed during special events and when raining, or for shade.

12. Front (East) Entry Vestibule- A permanent front entrance vestibule, bonded and sealed to the building, shall be constructed to enclose the front doors. The vestibule shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies. The vestibule shall also meet all Building Safety and other City requirements, including but not limited to emergency egress and disabled access. Between 9:00 PM and 6:00 AM on Fridays, Saturdays, New Years Eve and Sundays before Memorial Day and Labor Day, the following conditions shall apply: a) the front entrance doors shall be closed and only operable through the interlock/double door vestibule; b) the hotel clerk or other hotel employee shall only allow passage for disabled, registered hotel guests and valet patrons as permitted in Condition #28, and all others shall use the west entrance; c) the vestibule may also be operable with a hotel room key, and; d) only one set of doors may be opened at any time.
13. Courtyard- Only special events and functions may use the courtyard. No general public gatherings permitted in the courtyard, and no "spillover" from the Zinc bar and lobby or other public areas.
14. Courtyard-bar corridor wall- A new acoustic moveable wall shall be installed to separate the interior courtyard from the corridor north of the lobby bar. After 9 PM Friday, Saturday, New Years Eve, and Sundays before Memorial and Labor Day, and any day if the entry/exit queue is greater than 5 people for more than 15 minutes, both corridor walls (adjacent to the courtyard and the lobby bar) shall remain closed for the rest of the night, unless there is a special event or function using both the Courtyard and Zinc bar/ lobby. Whenever the Zinc bar and lounge has amplified sound, other than background music, after 9 PM the north acoustic wall shall remain closed. There shall be no sale, service or consumption of alcohol in the corridor when one or both moveable walls are closed.
15. Skydeck- All amplified music and sound, including DJ's for weddings only, shall use the house system only. No live amplified music is permitted. Amplified sound is prohibited on the skydeck after 9 PM, except for background music. The hotel shall relocate house speakers nearer to floor-level, not atop glass windscreen posts. The location and number of the speakers shall be based on the recommendations from an audio specialist in cooperation with the City's noise consultant, and shall be designed to mitigate off-site noise impacts and maximize efficiency on-site.
16. Sound audibility- The volume of music, entertainment, group singing, or voice, whether or not amplified, may not be audible outside of the hotel facilities to the following extent. For any length of time, except for the one function referenced in Condition No. 10 A., the noise may not dominate the background ambient noise, nor disturb surrounding residents, as defined in the MBMC noise regulations. After cessation of alcohol service in any venue or for any event or function, only background music is permitted.
17. Temporary Use Permit- Special events and functions of more than 125 attendees require City notice and a temporary use permit.
18. Entertainment Permit- Each year, the hotel shall apply for an annual entertainment permit on or before March 1, in accordance with Condition 40 in Resolution 5770, Metlox Master Use Permit.
19. Resident notification- The hotel shall e-mail to residents who sign-up, the schedule of special events and functions sent to the City, excluding client information.
20. Balconies- A permanent notice shall be placed on the doors to the hotel room balconies informing guests to be respectful of the neighbors at all times and to make no noise on the balconies or outside after 10:00 PM.
21. Exterior Doors- All exterior doors to the public areas of the hotel facility shall be closed after 9:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and daily for all special events and functions.
22. Noise Compliance Verification- The privileges within this Use Permit for extension of hours of operation shall only be granted after the installation of the mitigation measures, implementation of the improvements and modifications to the operations of the facility. After completion of these measures, the Community Development Director, in cooperation with the Noise consultant, shall determine if the measures are effective and meeting the objective noise criteria and mitigation standards described in

the previously submitted Noise reports. The neighbor representative may have input on the location, days and hours of the monitoring for any follow-up noise studies. The privileges and rights within this Use Permit shall not be effective unless the objective noise criteria and dBA reductions, as described in the previously submitted Noise reports, are achieved.

23. Hours for alcohol service

Alcohol service restricted to venues below; not permitted in any other public areas.		
<u>Venue/Event/Services</u>	<u>Venue Closing Time (Closed); Open 6 AM- per Cond. 39, Reso. 5770</u>	<u>End of Alcohol Service, (Before Closed in, Minutes)</u>
Zinc bar and lounge, Fridays-Saturdays and Sundays before Memorial Day and Labor Day	Midnight	20
Zinc bar and lounge, Sundays-Thursdays	11 PM	20
Terrace	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Conference (Green) Room(s)	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Special events	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Functions	10 PM	20
Skydeck	10 PM	20

Note 1. New Years Eve closed for all venues as regulated by MBMC- currently 1:00 AM, except the skydeck shall close at 10:00 PM.

General Conditions

24. Substantial Compliance- The proposed changes shall be in substantial conformance with the plans submitted, and the project description as approved by the Planning Commission, subject to any special conditions set forth in this amendment. The design, specifications and layout of sound mitigation measures is subject to further review and approval by the Director of Community Development, and the Planning Commission as determined to be necessary by the Director of Community Development. Any substantial deviation from the approved plans, or project description, shall have review and approval by the Planning Commission.

25. Occupancy Limits- Required occupancy loads shall not be exceeded and required access and exits shall remain unobstructed at all times. The exact occupancy numbers stated below are required to be posted on the site:

- Roof Deck – 92
- Lobby Bar (Zinc Lounge) – 159
- Patio to south of Zinc Lounge- 47
- Courtyard Area – 151
- Conference Room - 44

26. Terrace Use- The terrace shall not be a conditioned interior space as defined by the Building Code.

27. Public property clean up- The Shade staff shall monitor the area so that Shade patrons do not litter adjacent public property, including but not limited to the sidewalk, street, Metlox Town Square and all other public areas at Metlox. The hotel staff shall police and promptly clean up all areas with any litter and spills after all special events and functions. Public Works may bill Shade for any special event and function related public property clean-up costs.

Ingress-Egress Control

28. Valet- The Shade valet service shall relocate away from the Shade east or south entrances after 10:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after 10:00 PM for special events and functions any day of the week. Everyone, except for registered hotel guests and disabled, shall be prohibited from picking up their vehicles from the Shade front (east) entrance. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian accessways free and accessible to the general public, subject to approval of the Director of Community Development.

29. Taxis- Hotel employees shall discourage the public from using taxis on Valley Drive after 9 PM. Taxi pickups and drop-offs for the general public at the Shade entrance shall be prohibited after 9 PM. Everyone, except for registered hotel guests and disabled, shall be directed to the taxi stand on Morningside Drive and 13th Street, after 9 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve and after special events and functions any day of the week. Hotel staff may call for a taxi to pickup registered guests and disabled at the entrance at any time.

30. Entry-Exit Queue- The hotel shall locate the entry and exit queue at the west side of the building as required in Condition 31, but the queue shall not extend past the south or north sides of the building.

31. West entry-exit- After 9:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after 9:00 PM for special events, and functions, everyone except registered hotel guests and disabled shall use the west door, opening on to the Metlox Plaza, to enter and exit the hotel. The front east door that opens onto Valley Drive, and the south terrace doors shall not be used for entry and exit at these times, except registered hotel guests, disabled and valet patrons as permitted in Condition #28, may use the front east door.

On Sundays through Thursdays, if more than five patrons are waiting for more than 15 minutes to enter, staff shall establish the queue at the west side of the building for the rest of the night. Employees shall close and monitor the front (east) entry door as required to ensure access only by registered hotel guests and the disabled, and that everyone else uses the west door. Employees shall remind the patrons as they depart to respect the neighbors and to minimize noise and disturbance.

The hours and days may be administratively modified in the annual entertainment permit to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.

32. Staff parking- The hotel shall instruct their employees, contract employees, contractors servicing events, and all others providing services to the Hotel to not park on the public streets east of Valley Drive, in the residential areas or in Parking Lot 8 (the lot in the median of Valley and Ardmore). All parking shall be on the Metlox site or in other public parking structures or lots such as Lot 3.

33. Buses- Any large transportation such as buses, shuttles, or recreational vehicles shall not use the hotel drop off area on the east side after 9 PM daily, but shall load and unload off of Morningside Drive or 13th Street. The vehicles shall observe and comply with all parking regulations in these areas.

34. Town Square- Special Events and functions may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The applicant shall work cooperatively with the Management Co, landlord, any security personnel and the City to ensure that Shade facility patrons are not gathering in the Town Square and public areas outside of the hotel and disturbing the neighbors after the hotel public areas are close. The doorman or other Shade employee shall ensure that patrons do not leave the hotel facility premises with alcoholic beverages.

35. Front Drop Off- The drop off driving lane, in front of the hotel off Valley Drive, including the area at Valley and "12th Walk" by the bollards shall remain open, unobstructed and free of vehicles at all times, except for vehicles transitioning during valet drop off and pick up.

Food service

36. Food Service- The hotel may serve food in all public areas during the hours consistent with the service of alcohol. This shall not preclude 24-hour room service.

Marketing

37. Marketing-General- Any marketing and promotion of the facility will be first and foremost as a hotel use. The availability of the hotel for special events and functions shall not be marketed as the primary use. The hotel website may have pages that describe various venues, including costs and availability, but may not advertise pool parties.

38. Marketing-Bar and Functions- The hotel shall not advertise, market or promote drink or "happy hour" type of specials. Primary advertising and marketing shall be for the hotel, food and special events. Marketing and promotion for the bar and functions shall be secondary. The Zinc bar/lounge, terrace, and Skydeck will not be exclusively marketed to the general public as separate hospitality attractions.

39. Menu Posting- The hotel may post drink or food menus or signage outside of the hotel, with the exception of no posting of any drink or "happy hour" type of specials.

Procedural

40. Review. All provisions of the Master Use Permit Amendment are subject to review by the Community Development Department 6 months after completion of improvements and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Master Use Permit Amendment for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

41. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.

42. Fish and Game. 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.

43. Lapse of Approval. The Master Use Permit Amendment shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.

44. 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.

45. Effective Date. Unless appealed to the City Council, the subject Master Use Permit Amendment shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.

46. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.

47. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.

48. 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. 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. The City Clerk shall send a certified copy of the 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.

SECTION 4. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

SECTION 5. This resolution shall take effect immediately.

SECTION 6. The City Clerk shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect

PASSED, APPROVED, and ADOPTED this 7th day of September, 2010.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 
City Attorney

AYES: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola
NOES: None
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 September 7, 2010.

07/28/10-3 Adoption of a Resolution Approving a Master Use Permit Amendment for Modifications to the Hours of Operation, Notification for Special Events, and Restaurant Operations and Denying a Height Variance at the Shade Hotel, Metlox Site, 1221 North Valley Drive (Manhattan Inn Operating Company LLC)

Chairman Fasola commented that he has previously recused himself from consideration of the issue and will not participate in the discussion.

In response to a comment from Acting Director Jester, Commissioner Andreani said that although she was not present at the last hearing regarding the issue, she has reviewed the minutes and the video from that meeting.

Acting Director Jester stated that her understanding is that the Commission did not specify that functions could only be held in certain areas of the hotel, and such a restriction has not been included in Condition 3 of the draft Resolution. She commented that language was also added to Condition 11 regarding the terrace enclosure to clarify that the enclosure would need to meet the standards of the City noise consultant's noise studies for a fully enclosed terrace.

Commissioner Seville-Jones commented that staff has deleted the word "entirely" from the first sentence of Condition 11. She said that her understanding is that it was agreed the terrace would be entirely enclosed, and she is not sure why the word is being deleted.

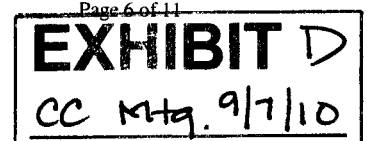
Acting Director Jester said that it does not appear that the intention was to strike the word "entirely" from the first sentence of Condition 11, and staff will keep it in the language.

Acting Director Jester said that the words "Happy Hour" was changed to "Bar and Functions" in the heading of Condition 38.

Commissioner Lesser asked about the extent to which the Commissioners can make any additional changes to the draft Resolution without renoting the hearing.

Acting Director Jester indicated that some of the additional comments that have been received by the neighbors and the applicant are substantive and would require renoting in order to be incorporated. She stated, however, that minor changes can be made for clarification without it being necessary to renote the item. She said that the Commission was very clear on their direction at the last meeting. She indicated that staff feels the Commission should vote on the draft Resolution as presented, and the applicant would have the ability to appeal the decision to the City Council if they desire.

Michael Zislis, the applicant, indicated that they would like for the Commission to vote on the proposed Resolution. He said that it would be appropriate for any additional changes to be addressed before the City Council.



Nate Hubbard said that he would also like for a vote to be taken on the draft Resolution at this hearing.

Commissioner Lesser said that he is eager for the Resolution to move to the City Council. He said that he is not certain of the extent of changes that can be made without renoticing. He indicated that he feels the Commission should help the parties come to closure rather than further complicating any issues.

Commissioner Seville-Jones said that it is important to recognize that the draft Resolution is a package that has developed from a compromise between the parties. She said that continuing to make changes to individual items makes the package less attractive.

Commissioner Andreani said that her understanding from reviewing the last meeting was that an agreement had been reached. She commented that she is not sure if making any changes sends the wrong message to the Council, as a great deal of work has gone into the draft Resolution as written.

Commissioner Seville-Jones commented that she does not believe it is necessary to add the language as suggested by the neighbors to Condition 22 to read: "All conditions other than Condition 23, hours for alcohol service shall become immediately effective upon approval by the City Council of PC Resolution 10-05."

Acting Director Jester indicated that the language suggested by the neighbors to Condition 22 is stating that the privileges given to the applicant as part of the Use Permit for extension of hours of operation shall only be granted after installation of the mitigation measures, which is already included in the draft Resolution. She said she does not feel it is necessary for the language to be included.

Commissioner Seville-Jones indicated that she supports allowing the neighbors' suggested language to Condition 28, as it is an administrative change that clarifies the condition.

The Commissioners agreed to change Condition 28 to read: ". . . after 9:00 p.m. for special events and functions any day of the week."

Vice-Chairperson Paralusz commented that **Mr. Zislis** has also suggested a similar modification as the neighbors regarding changing Conditions 28 and 29.

The Commissioners agreed to allow the neighbors' suggested change to Conditions 28 and 29 to add the same language as in Condition 31 to specify that registered hotel guests and disabled may use the east door after 9:00 p.m.

The Commissioners agreed with the applicant's suggestion to change Finding A in the draft Resolution to change the applicant's name from "Manhattan Inn Operations Company" to "Manhattan Inn Operating Company, LLC."

Commissioner Lesser suggested that the language of the first sentence of Finding A be corrected to read: "Manhattan Inn Operating Company LLC is seeking approval of an Amendment to a Master Use Permit, to allow modifications to the previously previous approval.

Commissioner Seville-Jones commented that food service has always been specified as small plates, and deleting the reference to small plates as suggested by the applicant for Finding A would be a substantive change.

The Commissioners agreed to leave the existing language of clause 3 of Finding A.

Commissioner Seville-Jones commented that the applicant's requested language to the last sentence of Finding A specifies their interpretation of the approved operating hours, and she does not believe that it is appropriate to include language regarding the applicant's interpretation.

Vice-Chairperson Paralusz said that she agrees with the comments of Commissioner Seville-Jones.

The Commissioners determined to leave the existing language for the last sentence of Finding A and not replace it with the applicant's suggested language.

The Commissioners agreed to the applicant's request to change the name in Finding E to "Manhattan Inn Operating Company LLC."

Commissioner Andreani said that she feels the applicant's proposed change for Finding L is substantive. She indicated that the high quality of service of the applicant has not been questioned, and the issue is regarding the noise being generated from the establishment rather than regarding service.

Commissioner Seville-Jones said that the applicant's suggested change for Finding L is interpreting what was done in prior Resolutions and is not necessary to be included the findings.

The Commissioners agreed to keep the existing language and not include the applicant's suggested additional language for Finding L.

Acting Director Jester pointed out that the Police Department has responded to calls regarding disturbances to the neighbors, and the disturbances are not alleged. She indicated that she also does not feel it is necessary to specify in Finding O that no citations have been issued as requested by the applicant.

The Commissioners agreed to keep the existing language for Finding O and not to include the applicant's recommended changes.

Commissioner Seville-Jones stated that one of the important points is regarding the unique nature of the property with the lobby being open 24 hours. She said that the definition of closing in Condition 1 as written addresses the issues that have been raised regarding closing hours of the hotel.

The Commissioners agreed that the applicant's suggested change to Condition 1 to delete or modify the definition of "closed" is substantive and that they would not support the applicant's proposed change to the existing language.

The Commissioners agreed that the applicant's suggested language to the fourth sentence of Condition 12 is substantive and that they would not support changing the existing language.

The Commissioners agreed that they would not support changing the wording of the last sentence in Condition 12 as suggested by the applicant.

The Commissioners agreed that the applicant's proposed change to Condition 15 is substantive and that they would not support changing the existing language as suggested by the applicant.

In response to a question from Commissioner Seville-Jones, Acting Director Jester indicated that Condition 18 has been eliminated, as dancing will be regulated by the Entertainment Permit.

The Commissioners agreed not to add language to the beginning of Condition 22 as suggested by the applicant.

The Commissioners agreed that the applicant's suggested revision to the table in Condition 23 regarding operating hours for the sky deck is substantive and that they would not support changing the existing language.

The Commissioners agreed that the applicant's proposed change to Condition 28 is substantive and that they would not support changing the existing language.

Vice-Chairperson Paralusz indicated that the applicant's proposed change to Condition 29 to add the words "and disabled" has already been addressed by the Commissioners with the neighbors' comments.

The Commissioners agreed that the proposed change of the applicant to the first sentence of Condition 31 is substantive and that they would not support changing the existing language.

The Commissioners agreed that the proposed change of the applicant to the first sentence of Condition 33 is substantive and that they would not support changing the existing language.

Commissioner Andreani commented that the language of the draft Resolution currently reads "Friday, Saturday and Sundays" in several places. She indicated that she would like to make the language consistent to read "Fridays, Saturdays and Sundays" throughout the document.

Commissioner Seville-Jones stated that there has been a great deal of compromise between the parties in reaching a conclusion to the draft Resolution. She indicated that the draft Resolution has developed as a result of both the neighbors and applicant keeping open minds. She commended **Mr. Hubbard** and **Mr. McPherson** for their work and participation in the discussions. She also commended **Mr. Zislis** on arriving at ideas to attempt to address the problems of the neighbors regarding noise. She said that she hopes that the City Council will consider that promises that were made to the community when the Metlox Plaza was originally developed. She indicated that where the patrons of the hotel exit during the evening hours is very important in regulating the level of noise to the neighbors. She indicated that the noise of patrons outside of the front entrance of the hotel is a significant source of the noise impact to the neighbors. She stated that she feels it is also very important that the definition of closing is included in the draft Resolution. She commented that the reason why the Commission is not approving additional operating hours on the sky deck is because the report from the sound engineer indicated that the applicant's proposed mitigation measures for the sky deck would not be effective in mitigating noise to the adjacent residents. She stated that she feels the sky deck is one of the most sensitive areas with respect to the application.

Commissioner Lesser stated that he gives the applicant tremendous credit for being receptive to the concerns of the neighbors and arriving at different proposals to address the concerns that were raised. He also commended **Mr. Hubbard** and **Mr. McPherson** in putting in the time to present their proposals and relay information to the residents. He commented that he hopes there will be compromise from both sides during further discussions with the City Council. He said that he hopes the applicant can acknowledge that the neighbors have experienced disturbances from noise. He indicated that he also hopes the neighbors can acknowledge that the applicant has agreed to spend a great deal of money and to have certain limitations placed on the operation of the hotel in order to help mitigate noise. He stated that he hopes the neighbors and applicant can build on the progress that was made at the Commission hearings to arrive at a compromise.

Commissioner Andreani said that she echoes the comments of Commissioners Seville-Jones and Lesser. She stated that a great deal of time, diligence and thoughtfulness has gone into the discussions. She indicated that the Commissioners had thought that they had arrived at a compromise after the June 23 hearing. She pointed out that the 2005 Master Use Permit for the Metlox development granted approval for a boutique hotel with ancillary bar and restaurant operations. She commented that she feels it is important to remember that the City is primarily a residential community. She also pointed out that the applicant opened the hotel knowing the property was located adjacent to a residential neighborhood. She indicated that the neighbors have been impacted by noise since the hotel began operating. She commented that she feels the applicant has given up only things that he wanted and not that were granted to him in the original Use Permit. She indicated that she feels the e-mail that was sent from Mr. Strain on July 28 is bringing back the original request for additional hours for all venues and particularly the sky deck. She stated that the neighbors have indicated that they want no additional entitlements granted for the sky deck. She indicated that she agrees with Commissioner Seville-Jones that mitigating noise by changing the exit location in the evenings is important. She said that she also feels that adding language regarding the definition of closing is important.

Vice Chairperson Paralusz stated that she also commends staff for the enormous amount of time and effort they have dedicated to the application and in helping to mediate many of the issues. She also thanked her fellow Commissioners for their work on considering the application. She thanked **Mr. Zislis** for working with the neighbors. She also thanked the neighbors for their input and for passionately presenting their positions. She said that the hearings have been conducted with a spirit of compromise and cooperation.

A motion was MADE and SECONDED (Seville-Jones/Andreani) to **APPROVE** a Resolution Approving a Master Use Permit Amendment for Modifications to the Hours of Operation, Notification for Special Events, and Restaurant Operations and Denying a Height Variance at the Shade Hotel, Metlox Site, 1221 North Valley Drive, as amended.

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

Acting Director Jester explained the appeal process and indicated that the item will be placed on the City Council's agenda for their meeting of September 7, 2010.

E. PUBLIC HEARINGS None
F. DIRECTORS ITEMS None.

G. PLANNING COMMISSION ITEMS

Vice-Chairperson Paralusz said that the Parks and Recreation Department and the Parks and Recreation Commission will host a movie night showing E.T. at the pier at 7:00 p.m. on Saturday August 7, 2010.

H. TENTATIVE AGENDA August 11, 2010

I. ADJOURNMENT

The meeting was adjourned at 8:40 p.m. to Wednesday, August 11, 2010, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

LAURIE JESTER
Acting Community Development Director

EXHIBIT F:

**LATE P.C.
STAFF REPORT
ATTACHMENTS**

6/24/09 (NONE)

7/22/09

10/28/09

5/12/10

6/23/10

7/28/10

LATE

ATTACHMENTS

FOR

7/22/09

P.C. MEETING

WE SUPPORT SHADE

Shade Hotel and its Zinc Lounge provide the Manhattan Beach community a refined place to enjoy a drink or snack with friends and business associates. Any requirement that Zinc Lounge close before 12:00 midnight deprives locals of this uniquely suitable facility. We urge the Manhattan Beach Planning Commission and City Council to approve hours that are consistent with other commercial establishments in Metlox Plaza and the downtown Manhattan Beach commercial zone.

(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
231	Victoria	Gustafson	Y	Y	N (Neighbor)
232	SIDNEY	MELTON	Y	Y	N Neighbor - I find that the staff and all ^{are} neighbors ^{accommodate} neighbors.
233	James	White	Y	Y	N Good time here
234	Janice	White	Y	Y	N Never problems
235	TRACIA	OLBES	Y	N	N KEEP MY HUSBAND EMPLOYED
236	Debra	Von Sprecken	Y	Y	N NEIGHBOR we love the shade Hotel!
237	ROBERT	HUDDLESTON	Y	Y	N I'm in favor of shade extending HOURS
238	Klex	Miller	Y	Used to be	N Best place to relax in Manhattan, by far. Please let us hang out longer!
239	Flora	Alvarez	Y	Y	N DISTRIBUTED AT 7/22/09 PLANNING COMMISSION
240	Tyler	Thomas	Y	Y	N MEETING

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
241	MAX	RESIDENT	Y	Y	N	
242	ELKE	COVSSI	N	N	N	It should be the same hours as the bars in this area.
243	Dan	Richtman	Y	Y	N	The residents are being unreasonable!
244	Mahmoud	Albawab	Y	N	N	increase. Keep more hours for the Hotel!
245	Alicia	Alvarez	Y	N	N	I love shade
246	JOANNA	OTOYA	Y	N	N	
247	Carlos	Aranda	Y	N	N	XXXXXXXXXX
248	LARRY	BRANDT	N	N	N	Visiting a guest!
249	Sean	Sweeney	Y	N	N	I ask the city to do what is fair and think of the entire city of Manhattan Beach!
250	Stephanie	Beelman	Y	N	N	

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(PLEASE PRINT)						
	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
331	Tina	Moore	N	N	N	Please allow shade/zinc to stay open late. Thanks!
332	Katherine	McDonald	Yes	NO	Yes	Please extend Shade's hours as it is very ^{is} a very good bar/hotel/place to dine!
333	Eric	Oakes	Yes	No	No	I love Shade so much! It makes me crazy!
334	Kevin	Holbert	Yes	No	No	
335	Belinda	Donleavy	Yes	NO	NO	
336	Stephanie	Hill	Yes	No	No	Extend the hours!
337	AMBER	MCGOVERN	N	N	Y	
338	Russ	Whizetta	No	NO	NO	
339	Zangiet	Shligpop	No	No	No	I only like places that are open late.
340	Job	Slavin	No	No	No	

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
711	Danielle	Sawley	X		Please stay open
712	Roland	Sumi	X		
713	Bartram	Sara		X	
714	BARTRAM	Bosby		X	
715	ZOE	KORSTVEDT	X		
716	Douc	LETSON			X LET'S DO THIS!
717	Kenn	dones			DO IT
718	Cliff	Scheel			X Just Do it!
719	Pete	Levy	X		Good Idea to have a classy place stay open late
720	OSAMA	BAKER	Y	N	N

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
921	Yvonne	Tully			Y	
922	Justin	Love	/			
923	DANNA	HANNAN	Y			
924	Jaime	Angell	Y			
925	Samwe	Green	Y			
926	Erin	Dudley	X			
927	DAVID	WISNIEWSKI	Y	Y	N	
928	Lisa	Wells	N			
929	Joe	Joe	Y			
930	ARASH	SARHANGIAN	Y			

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
931	Elena	Thomas		Y	
932	Jane	Kaatz		Y	
933	Jenny	Griffith		Y	
934	Kristin	Kh		Y	
935	JOHN	BENZ	X	Y	
936	Angela	Winter		X	please extend !!
937	Sarah	Chapman		Y	
938	Julie	Barnes		Y	
939	GREG	TIRITILLI	Y		
940	MARINO	MARENATI	Y		

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
941	ALI	SARHANGIAN	Y		
942	JOE	WALSH	Y		
943	Ardy	Modressis	Y		
944	Chris	Coleman	N		
945	Justin	Coleman	N	N	N
946	Rodman	Amiri	Y	N	N
947	PS	Pourshahidi	Y		
948	Karl	Gates	Y	Y	N
949	Blake	Donaldson	Y		
950	Jason	Geis	Y		

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
951	Bruce	Lambert	Y		This place is so Rad!	
952	Arash	Escampan	Y		We Need a high class place like this	
953	Melwan	Sahcha	Y		Awsome place that makes Manhattan what it is!!	
954	Neema	Yaz	Y		Great place	
955	KASRA	SHAFIEE	Y	N	Y	Best place in South Bay!
956	MIKE	Schwartz	Y	Y	N	12:00 close is ridiculous!
957	ALEX	Zukovic	Y	Y		
958	Christine	Zimmerman	Y	Y	Y	Wonderful meeting place and hotel!
959	Sanjay	Chugani	Y	Y	Y	Awsome place - stay open later!!!
960	NATHAN	SMITH	Y	N	Y	LOCAL BUSINESS OWNER WOULD LIKE EXTENDED HOURS TO ENTERTAIN CLIENTS

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(PLEASE PRINT)						
	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
701	Mike	JARVIS	Y	Y	Y	I lived in MB for 30 years. Shade is an asset to the city and should stay open
702	Elizabeth	Salathe	Y	Y	N	
703	Mark	Haushalter	Y	Y	Y	great place & should extend hours.
704	Alysha	Wheeler	Y			Stay open longer
705	Fatima	Bense lim	Y	Y	N	stay open longer
706	Karen	tan	Y	Y		stay open lounge
707	Nonette	Barragan	Y	N	N	Hermosa Bch Resident Please stay open longer
708	David	Przybil	Y			
709	Pete	Lataur		Y		Stay open longer
710	MIKE	GARIN		Y		

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
721	Esther	Reyes	Yes	NO	NO	Cooler bar in South Bay
722	Juan	Reyes	Yes	NO	NO	ENJOY THE BAR
723	Cheryl	Keeler	Yes	NO	NO	great place!
724	Shannon	Calabria	yes	yes	no	Love it here
725	Dora	Drorbank	yes	yes	no	love it here!!!
726	Julie	Deland	yes	no	no	stay open late!
727	Molly	Lash	yes	no	no	Ditto
728	MATT	OVERPEAK	YES	NO	NO	MURKIN
29	Chris	Irby	N	N	Y	
30	Molly	butshall	Y	N	N	

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
731	Thomas	Ure	Y	Y	N	
732	Jennifer	ure	Y	Y	N	
733	GIANCARLO	PATREGNANI	Y		Y	
734	Lolita	Vlen		Y		
35	Maureen	mcusig	Y	Y	N	
36	Danielle	orland	Y	Y	N	
7	Laura	Hunter	Y		N	We enjoy the class hotel or better said the class
3	Marketa	Dequie	Y		N	
	Juan	Burke	Y	Y	N	
	Met	Satih	N	N	N	just what we need !! come on!

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
741	Maggie	Moe	Y	(X)		
742	Jennifer	Mahler	Y			
743	John	Van Oast	N	N	N	frequent Guest - love it
744	Mae	Smolder	Y	Y	N	Fight the Power
745	Rick	Dracice	Y	Y		
746	Lauren	Lave	N	N	N	
747	Bob	Shulge	Y			Please!
748	DAVID	GIBBS	No	No	No	
749	JAMES	DIBSD	Y.			
750	LYNDON	FAULTNER	Y			

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
751	Adam	Lebow	Y			
752	Ursola	North	✓			
753	Candice	Carbone	✓			It would be great to let shade stay open later!!!
754	Derek	Cocco		✓		Love Shades!
755	Sarah	Cocco		✓		Stay open!!!
756	Haidi	Kordic		✓		Please stay open
757	Ken	Cutter		✓		
758	Mark	Loveman		✓		
759	Rick	Bulley		✓		
760	Rob O'Brien	O'Brien	✓			

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
761	Ben	Eutshell	Y	N	N	
762	Louann	Sutcliffe	Y	N		
763	Ann	Grennan	Y	Y	N	
764	Laura	Savitz	Y	N	N	
765	Sherry	Sounville	Y			
766	Mike	Mussey	Y	N	N	
767	Jim	Noldo	Y	N	N	
768	Beral	McKeehan	N	N	N	
769	Victoria	CARTER	Y	N	N	
770	Erica	Sauer	Y	Y	N	

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
771	Chris Lee	Y			
772	Pendo	Y	Y	N	Please open late
773	Nic	Y	Y	N	Stay open
774	Mike	Y/SS			
775	W				Walid Sami
776	Lesar			Yes	
777	Danielle		Y		
778	JOHN	FORCHIONE	yes		
779	Zodi	CE	Y		
780	Kr	Cher	✓	NO	kr ch

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
781	Steve	Portney			Y	[Signature]
782	Andrew	Golden			Y	[Signature]
783	POD	Rikka	Y	Y		[Signature]
784	Tim	L.H.K	N	N		[Signature]
785	Matt	Smithers			Y	[Signature]
786	CHAD	FAUST	/		Y	[Signature]
787	GARET	KRIPCHUK	/			
788	Randall	Porter		✓		
789	Mike	Yepp		✓		[Signature]
790	Sherry	Thomas	✓			[Signature]

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
791	Stacy		yes		
792	Todd		Y		
793	Jon		yes		
794	Grant	Yes			
795	TERRY	YES			
796	Jeff		Yes		
797	Debbie		yes		
798	Ruth			YES	
799				YES	
800	Alan	Y			

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
1	Selena	Hira	Yes	NO	Yes	
2	Juan Pablo	Walker	yes	Yes	yes	
3	Rich	Walker	Yes	Yes	yes	
4	Helena	Duncan	Work	Work	NO	Shade is a wonderful contributor to our community. MBLA supports Shade!
5	Dei	Murray	Yes	yes	N	
6	MARK	ROSE	yes	yes	NO	A Good Business Decision
7	TOM	Beedon	Yes	NO	NO	" " " I agree! "
8	ISSAM	SHASHA	Yes	Yes	NO	I agree
9	SIRJU	PATEL	Yes	Yes	No.	"
10	Edward	Torices	Y	N	N	

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
11	WILLIAMS	ROOS	Y	Y	Y	GREAT HOTEL, BEST in So. Calif <u>DONOT CHANGE A THING !!</u>
12	Tim	Graham	Y	Y	Y	
13	Steve	Legare	Y	Y	Y	
14	Lu	MCCARTIN	Y	N	N	Great Place
15	TONY	CHOUKE	Y	Y	N	WE NEED A GOOD PLACE TO MEET IN MANHATTAN BEACH
16	Leigh	Chouke	Y	Y	N	Excellent lounge + hotel!!
17	Eera	Chouke	Y	Y	N	In this bad economy, we need to support businesses who provide employment for residents.
18	Nicole	TRUTANICH	Y	Y	N	IT'S AN UPSCALE PLACE WHERE ADULTS CAN CONGREGATE
19	Camilla	TAR	Y	Y	Y	We got married there! wish it was open later! please :)
20	James Tar	TAR	Y	Y	Y	Married there 6/27.
	WILL	VON DER AHE	Y	Y	N	WE NEED SHADE! 19 of 56

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
21	Louis	Stands	Y	Y	Y	Great Bar.
22	Clayton	Shepherd	Y	Y	Y	A fantastic up-scale lounge
23	Bilki	Romein	Y	Y	Y	I love this place!!
24	John	Balk	Y	Y	Y	wonderful service
25	Juli	Mausolf	Y	N	N	Friendly service -
26	LARRY	CIMMAROSTI	Y	Y	Y	WONDERFUL SERVICE
27	Jan	Shepherd	Y	Y	Y	Impressed with the efficiency of the staff!
28	Eve	MacHale	Y	Y	Y	Love it!!
29	Martin	Ensberg	Y	N	Y	Say it isn't So Joe!!
30	Laura	Ensberg	Y	N	Y	Great place!
	Elizabeth	Myers	Y	Y	N	We need shade!

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
31	Stephen	Toth	Y	N	Y	
32	Thomas	Rowe	Y	N	N	
33	Deann	Dupre	Y	N	N	
34	JADE	VINH	Y	N	N	
35	CHRIS	TRAN	Y	N	N	
36	Aiina	Serici	Y	N	N	
37	Stacy	Morris	Y	N	N	
38	maureen	ran car	Y	N	N	
39	Shannon	lang	N	N	N	
40	Posilla	Ceras	Y	N	N	

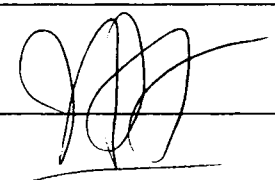

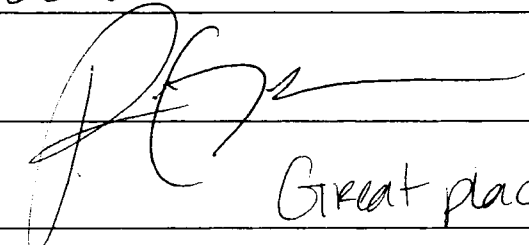
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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest		
First Name	Last Name	Y/N	Y/N	Y/N	COMMENTS	
61	Shauna	McKelvey	Y	Y	N	I Love Shade
62	JENI	VOUGHT	Y	N	N	SHADE ROCKS - KEEP IT GOING
63	Shannon	Macpherson	Y	Y	N	
64	Christina	Campdoras	Y	N	N	
65	mac	mahmoudi	Y	N	N	KEEP SHADE OPEN
66	Tiffany	Anderson	N	Y	N	Keep shade open
67	Derek	Hatcher	Y	Y	N	Open Shade Late
68	DEREK	OLBES	Y	N	N	VIVA LA SHADE
69	Dennise	Warnecke	Y	Y	N	I love Shade! ☺
70	Brandon	Moore	Y	N	Y/N	Oh Yeah

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
71	Monique	vonFlotow	Yes	Yes	NO	Mon 1st D Please let Shade stay open later.
72	Stephanie	Ertman	Y	Y	No	Steve
73	Jonna	Harper	X	N	no	
74	Shannon	Carroll	Y	N	N	
75	Scott	Cuming	Y	N	N	A great place!
76	Sophie	Henley	Y	N	N	Best bar in town!
77	Fredrick	Jonung	Y	N	N	Love the Place
78	Roderick	Gaertan	Y	N	N	
79	Daisy	Taylor ^(M)	Y	N	N	Great place! 😊
80	Sarah	Rapman d	Y	Y	N	awesome!

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
161	John David	Barton	Y	N	N	It's a great asset to the community. The more night-life the better the local economy.
162	Kimberley	Wilkes	Y	Y	N	
163	Jen	Peterson	Y	N	N	
164	Julia	Tracey	Yes	No	N	
165	Sari	Tracy	YES	NO	N	
166	Angelica	Petrak	Y	N	N	Shade is a great addition to the South Bay Community and has great atmosphere.
167	Wally	hunk	Y	N	N	Shade is the best.
168	Matthew	Despel	Y	N	N	
169	Kate	Barry	Y	N	N	
170	David	Meistrall	Y	N	N	My Grandpa on 12th st. loves shade

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
171	Jessica	Bell	Y	N	N	
172	Monique	Flores	Y	N	N	
173	Travis	Kuhl	Y	N	N	
174	Petruck	Tracey	Y	N	N	
175	Summer	Van Lackum	Y	N	N	
176	Tim	Kielbaso	Y	N	Y	ROCK ON 1 more hour!!
177	John	Hulett	Y	N	N	PITTO!
178	Joe	Calise	Y	N	Y	
179	Janelle	Inez	Y	N	Y	
180	Mary	Rineman	Y	N	N	

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
181	Jamie	Acosta	Y	Y	N	
182	Ted	BURNS	Y	Y	N	
183	Brenda	Calise	Y	N	N	
184	TY	INEZ	Y	N	Y	
185	Rina	Young	Y	N	N	
186	Daniel	Young	Y	N	N	
187	Beth	Donoher	Y	N	N	
188	Kurt	Stenzel	Y	N	N	
189	Dee	Huerro	Y	N	N	
190	Arden	Young	Y	N	N	

191 DEAN TELLO Y N NO

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
191	SEWAN	MANUEG	Y			
192	KAM	ARD	X			
193	Steve	Mellin	Y			Upscale polite crowd wishes to extend fun get together
194	Fli	<i>[Signature]</i>	Y			
195	HAZEM	ZATED	Y			
196	FIDIZ	Muradal.			Y	
197	Joseph	COOK	X			my favorite place in Manhattan Beach
198	ste	Kyrne	Y		Y	FOR JUNE
199	RICHARD	CORGBL	Y	Y		NICE ESTABLISHMENT
200	DENNIS COB	COBOL	Y	Y	N	GOOD PLACE

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	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
201	HENRI	TARTT	N	N	N	
202	ANITA	TENZERA	Y			We (1) would love to see hours extended at Zinc lounge
203	Silvana	Smith	Y			I love shade and want to see extended hours.
204	MITCH	CHUN	Y	Y		SHADE BRINGS CLASS TO THE SOUTH BAY.
205	CHRIS	JOHNSTON	N	N	N	
206	GARY	DeLuca	Y	Y		Should be open like other businesses
207	GREG	HOZINSKY	Y	Y	N	GREAT PLACE, CLASSY PLACE!!
208	Sherni	DeLuca	Y	N	N	
209	Robert	Reyes	Y	N	N	
210	Lisa	Martinez	Y	Y	N	YES - Keep open

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First Name	Last Name	Y/N	Y/N	Y/N		
251	Barrett	Patel	Y	N	N	
252	Owen	Fileti	Y	Y	Y	Closing at 11 P.M. is bunk!
253	Michelle	Quecans	Y	Y	N	
254	STEVEN JOSEPH	RANDES	Y	Y	Y	KEEP IT OPEN!
255	HUMA	JAINES	Y	Y	Y	
256	NICK	CANTALUB	Y	N	Y	KEEP IT OPEN
257	Ramon	ALEMAY	Y	Y	N	↑ same
258	Rob	SILVER	Y	N	N	SAME!
259	Sean	KEENAN	N	N	Y	Same
260	GARY	LANE	N	N	Y	KEEP IT OPEN!!!

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
261	Dave	AGNEW	Y	N	Y	I'm good with it!
262	Alex	Rothor	N	N	Y	This place is awesome!!!
263	FRED	PRETTIGER	Yes			" " " "
264	Ronnie	Indelow	Y			
265	TED	VERON	Y	N	N	
266	John	Luccardello	Y	N	N	
267	Christina	Crowell	Y			Love the hotel + bar!
268	Jeffrey	BAZAN	Y	Y		ALWAYS A CLASS ACT!
269	Tamma	wagner	Y	Y	N	Please!!!
270	Harold	Eng	Y			Please

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
271	Gerry	Goryl	Y	Y	Y	Full <u>24</u> hrs. ^{C'mon... its a hotel....!} why settle for less!
272	Marta	Kapoor		Y		
273	Wendy	Pfeifle	Y	Y		
274	Matti	Kapoor	Y	Y		
275	LARA	COZZA	Y	Y		FAVORITE SPOT. PLS KEEP OPEN LATER
276	Lisa	Castro	Y	Y		
277	Alison	SEENTER		Y		Great place to meet friends
278	MARK	KERONCHAK	Y	N		GREAT PLACE, WONDERFUL PEOPLE
279	Caroline	Frost	Y	N	N	Brew up here. Parents live in HB.
280	KAREN	WHITMORE	X	Y	N	

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First Name	Last Name	Y/N	Y/N	Y/N		
281	EDWARD	RODRIGUEZ	Y			
282	Van Oppen	Michelle	N	Y	N	
283	Robin	Thornadsgal	Y			Please stay open later
284	Juli	Kordic	Y	Y	N	
285	Charles	BRIGANDI	YES	YES	N	GREAT PLACE TO STAY
286	Laura	Cardeno	Yes	N	Y/N	
287	Arenovi	Nmez	Yes	N	h	
288	Johnny	Kovacic	yes	N	h	
289	Renata	Correa	Yes	N	N	
290	Jessica	Goltermann	Yes	yes	NO	

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
301	Brittany	Sato			Stay open ☺
302	Marisa	Hill	Y	Y	
303	Heather	Blair		Y	Stay open ☺
304	Ashley	Russell		Y	" "
305	Courtney	Kinker	X		
306	Lora	Hoffstetter		Y	
307	André	Gonzales		Y	Classy place
308	Jeremy	Phoenix		Y	Best Place in town!
309	Stacey	Thomas	Y		
310	Phil	Darvagh	Y		

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
311	Shannon	Steele		Y		OF COURSE
312	Jammy	Acosta		Y		OF COURSE
313	Jill	Howard			X	
314	Samantha	Kaplan	Y			
315	Jessica	Snow			X	
316	Amy	Byrne	Y			
317	Phil	Bark	Y	N	N	FOR SURE
318	CARLOS	MARTIN	Y		N	
319	BRAD	TUNER	Y		Per	
320	NICK	PALMER	Y	Y	N	

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	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
321	Pat	Snow	Y	N		
322	John	Snow	Y			
323	Michael Mertin	Mertin		Y		
324	Jeff Boyc	Boyc	Y			
325	Michelle	Weber		Y		
326	Greg	Rutkowski	Y	Y		
327	Davis	Hackenberg			Y	
328	Marc	Schlefer			Y	
329	John	Ruhf	✓			
330	Lisa	Kelly			Y	

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
401	Lynne	Nacci	Y	N	N	I ♥ shade ☺
402	Ashley	Green	Y	N	N	
403	Mike	Terrano	Y	Y	N	Please!
404	Stephanie	Hawks	Y	Y	N	
405	Angelae	Ryan	Y	N	N	
406	Samantha	Landers	Y	N	N	
407	Danelle	Torpin	Y	N	N	
408	Ashly	Danhi	Y	N	N	
409	Chivelle	Armenta	Y	N	N	
410	Kara	Jones	Y	Y	N	

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First Name	Last Name	Y/N	Y/N	Y/N		
411	ZACHARY GRAY	GRAY	Y	N	Y	
412	CERRY	MARTEL	Y	N	N	
413	Suzanne	Kemmerer	N	N	Y	
414	Diana	Turner	Y	Y	N	
415	Ashley	QUIN	Y	Y	N	
416	Sandra	Farkas	N	N	N	
417	Rob	CHRISTENSEN	N	Y	N	
418	MICHAEL	CHRISTENSEN	N	Y	N	
419	Dana	STYCK	Y	Y	N	
420	Deana	Lisee	Y	Y	N	

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	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
421	MARTIN	LEKARTS	Y	Y	N	I LIVE NEXT DOOR TO SHADE!!! Stop complaining! Have fun!!!
422	STEVE	SMITH	Y	Y	Y	NEED TO EXPAND THE HOURS!
423	KRISTIN	MULLER	Y	Y	N	love it, hours are FINE
424	SCOTT	ROY	Y	Y	Y	
425	JAMIE	LESTER	Y	Y	N	
426	AMANDA	VEITIA	Y	Y	N	HOURS ARE PERFECT!
427	MARCIA	MILLER	Y	Y	N	
428	GO	MAC				
429	MIKE	DAVIS	Y		Y	
430	KYLE	BRANDT	N	N	Y	

320 13th St. 11/1

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	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
431	Id	Boj	Y	Y	N	
432	MARUA	MILLER	Y	Y	N	(3) BAR & PAID
433	SUZANNE	MACKEY	Y	Y	Y	
434	TOSIA	MACKEY	Y	Y	Y	
435	XXXXXXXXXX					
436	LINDA	KAIL	Y	Y	N	
437	BRIAN	KAIL	Y	Y	N	
438	KAWONI	GILSON	Y	Y		
439	MAE	FORD	Y	Y	Y	
440	BRITNEY	ULLMANN	Y	N	N	

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First Name	Last Name	Y/N	Y/N	Y/N		
801	Don	DeRossi	Y	Y	N	
802	Virginia	DeRossi	Y	Y	N	
803	Dustin	Hullibarger	Y	Y	N	
804	Prater	Druery	Y	Y	N	
805	Jacob	Wittmann	Y	N	N	
806	Alex	ENORT	Y	N	N	
807	Brian	Lubin	Y	Y	N	
808	Randall	Moss	Y	Y	N	
809	Vincent	Imamoto	yes	yes	NO	
810	Daniel	Primmera	yes	NO	NO	

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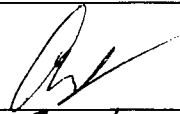

(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
811	Rachel	Ramsey	Y	Y	N	
812	David	Carlton	Y	Y	N	
813	Catherine	D'Alessandro	Y	Y	N	
814	KRISTINE	PETRINI	Y	N	N	
815	CHRIS	PETRINI	Y	N	N	
816	BRUCE	WILLIAMS	Y	N	N	
817	Diana	Lathrop	Y	N	N	
818	Adrianna	Kelaker	Y	N	N	
819	Isabella	Carlton	Y	Y	N	
820	Alynde	Waring	Y	N	Y	

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	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
821	JOHN	COOK			Y	WE NEED IT OPEN!
822	ADAM	JAMIESON			Y	SAME AS ABOVE, STAY OPEN LATE!!
823	Sarah	letsungun			Y	
824	Andrew	Kaminsky			N	Keep it open late
825	Stu	Abou			N	
826	Darla	Darnay		Y		Keep it open
827	STACEY	RIGGINS		Y		PLEASE KEEP IT OPEN LATE!
828	Moira	Repola		Y		
829				Y		
830	Fred	Crawford		Y	N	

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First Name	Last Name	Y/N	Y/N	Y/N	
831	David	Apadourian	Y	Y	N ^{with} When you hear of "planning" involving reducing city revenue you wonder why and/or how these people got voted in.
832	JONI	CLARK	Y	Y	N
833	JODI	CLARK	Y	N	
834	Jerry	Higgins	Y	Y	N
835	WILLIE	WAMOTO	N	N	N
836	Anekhane	Lasher	Y	Y	N ^{SHADE BAR} _{Yes}
837	RAW	JASS	Y	Y	N
838	Tracy	Bradley	Y	Y	N Keep it goin'
839	Crystal	Posner	Y	Y	N YES!
840	Amanda	Wicklas	Y	Y	N <u>Keep it open!</u>

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First Name	Last Name	Y/N	Y/N	Y/N		
451	Kevin	Hurley	Y	N	N	
452	Mammi	Meyer	N	N	Y	
453	Derek	Hunt	N	N	N	guest
454	Brook	Sales	no	no	no	
455	Tom	LOGAN	Y	N	N	
456	Shawn	Roy	Y	Y	N	
457	Matt	Roy	Y	Y	N	
458	Scott	Roy	Y	Y	N	
459	David	Sullivan	N	N	Y	
460	Connie	Latorre	Y	N	N	

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First Name	Last Name	Y/N	Y/N	Y/N		
601	Steven	Aldana	Y	N	N	Shade provides an enjoyable atmosphere, Its one of few places I highly recommend.
602	Tricia	Dulgado	Y	N	N	
603	Kristen	Anthony	Y	N	N	Stay open past midnight!!
604	Charmaine	Vempy	yes	N	N	
605	Amy	Polvani	Y	N	N	
606	Jackie	Janson	N	N	N	
607	ALICE	WISNIGHT	Y	Y	N	KEEP SHADE & MUSIC OPEN
608	Andrew	Parkin	Y	Y	N	Keep shades open
609	Michelle	Yang	Y	Y	N	Resident - love shade
610	VICTOR	MORAN	X	N	Y	Keep Both OF them OPEN Past midnight The Beach

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS
First Name	Last Name	Y/N	Y/N	Y/N	
611	BOB	Y	Y	Y	OWN YEARN
612	Cameron	Y	Y	Y	NO MAKE IT HAPPEN!
613	CORINNE	Y	F	N	YES - PLEASE!
614	Mike	Y	Y	N	
615	CHRIS	N	N	N	
616	Cynthia	N	N	N	Just do it!
617	Jason	Y	Y	N	
618	Dann	Y	Y	N	
619	Samantha	Y	N	N	
620	Kelly	Y	N	N	2 Hours EVEN BETTER!

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
621	Mike	Ashton	Y	N	N	Go for it.
622	ERIC	SANEHOLTZ	Y	N	N	yes. DO IT.
623	Boris	Feldman	Y	N	N	please!
624	Jennifer	Velez	Y	N	N	Do it.
625	Dominique	Huet	N	N	Y	V++
626	Brandon	Waghorne	Y	Y	N	
627	PAUL	MELTZER	Y	Y	N	
628	CARI	Buck	Y	Y	N	
629	ROB	SANCHEZ	Y	Y	Y	I LOVE U!!!
630	IZIAN	SUN	Y	Y	N	PLEASE PROCEED

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(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
441	Mary	Farnham	Y	Y	N	shade is a great asset to the community
442	Thomas	Brown	N	N	N	Shade is a great establishment I visit frequently when in town
443	ISRIAN	PARENT WITH DE	N	N	Y	
444	Michael Jackson	Artist	N	N	Y	I love it! I want to dance the night away.
445	Tracy	Antonovich	Y	N	N	
446	Gabriela	Barrera	Y	N	N	love shade!
447						
448						
449						
450						

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
41	Dox	KRAUSE	Y	N	N	
42	RICH	TONG	Y	N	Y	
43	MIKE	MURPHY	Y	N	Y	
44	Anna	STANCU	Y	N	Y	
45	Andrei	Pep	Y	N	Y	
46	Kate	Kuff	Y	Y	Y	
47	Kelly	Finnerdy	Y	Y	N	
48						
49						
50						

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
841	Kyle	Darr	Y	Y.	(N)	Pamper Manhattan Beach Lounge
842	KARL	KMETO	N	N	N	
843						
844						
845						
846						
847						
848						
849						

WE SUPPORT SHADE

Shade Hotel and its Zinc Lounge provide the Manhattan Beach community a refined place to enjoy a drink or snack with friends and business associates. Any requirement that Zinc Lounge close before 12:00 midnight deprives locals of this uniquely suitable facility. We urge the Manhattan Beach Planning Commission and City Council to approve hours that are consistent with other commercial establishments in Metlox Plaza and the downtown Manhattan Beach commercial zone.

(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
371	Seth	LaPiere	Y	N	N	great establishment with amazing clientel
372	Worm	Wodzynski	Y	N	N	
373						
374						
375						
376						
377						
378						
379						
380						

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(PLEASE PRINT)

	South Bay Resident	Manhattan Beach Resident	Hotel Guest			
	Y/N	Y/N	Y/N	COMMENTS		
First Name	Last Name					
91	Antonio	ZERMENO	yes	yes	NO	
92						
93						
94						
95						
96						
97						
98						
99						
100						

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(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
81	JOHN	STRAIN	Y	Y	N	
82	TONY	GADALNY	Y	Y	N	
83	MICHAEL	GADALNY	Y	Y	N	
84	JORDAN	PELAEZ	Y	Y	N	
85	GREGORY	DERIAN	Y	Y	N	
86	KIMBERLY	SHAMM	Y	Y	Sometimes	
87						
88						
89						
90						

WE SUPPORT SHADE

Draft 310,683.3515

Shade Hotel and its Zinc Lounge provide the Manhattan Beach community a refined place to enjoy a drink or snack with friends and business associates. Any requirement that Zinc Lounge close before 12:00 midnight deprives locals of this uniquely suitable facility. We urge the Manhattan Beach Planning Commission and City Council to approve hours that are consistent with other commercial establishments in Metlox Plaza and the downtown Manhattan Beach commercial zone.

(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
361	Brooke	Lefton	y	N	N	
362						
363						
364						
365						
366						
367						
368						
369						
370						

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Shade Hotel and its Zinc Lounge provide the Manhattan Beach community a refined place to enjoy a drink or snack with friends and business associates. Any requirement that Zinc Lounge close before 12:00 midnight deprives locals of this uniquely suitable facility. We urge the Manhattan Beach Planning Commission and City Council to approve hours that are consistent with other commercial establishments in Metlox Plaza and the downtown Manhattan Beach commercial zone.

(PLEASE PRINT)

	First Name	Last Name	South Bay Resident Y/N	Manhattan Beach Resident Y/N	Hotel Guest Y/N	COMMENTS
901	Erin	Newcomb	Y	Y	Y	
902	Scott	Sebasoy	Y	Y	N	
903						I have always appreciated & enjoyed the hospitality of Shade & I hope they are permitted to continue in the future.
904						
05						
06						
7						

WE SUPPORT SHADE

Shade Hotel and its Zinc Lounge provide the Manhattan Beach community a refined place to enjoy a drink or snack with friends and business associates. Any requirement that Zinc Lounge close before 12:00 midnight deprives locals of this uniquely suitable facility. We urge the Manhattan Beach Planning Commission and City Council to approve hours that are consistent with other commercial establishments in Metlox Plaza and the downtown Manhattan Beach commercial zone.

(PLEASE PRINT)		South Bay Resident	Manhattan Beach Resident	Hotel Guest	COMMENTS	
First Name	Last Name	Y/N	Y/N	Y/N		
341	Houli	Schmitt	Y	Y	N	
342	NATALIA	McKENZIE	Y	Y	N	
343	Holly	Sestak	Y	N	N	
344	RAJIB PRANAV Kuby	GHAFAR	Y	Y	Y	
345	ILASSIM	GHAFAR	Y	Y	Y	
346	Lester	Denbow	Y	N	N	Downtown MB Employee.
347						
348						
349						
350						

LATE

ATTACHMENTS

FOR

10/28/09

P.C. MEETING

RESIDENTS' INPUT ON SHADE HOTEL APPLICATION

Planning Commission Hearing, October 28, 2009
Nate Hubbard, 1300 N Ardmore Ave, natehubz@mac.com

Dear Commissioners,

I am Nate Hubbard, 1300 N Ardmore Ave, and act as the neighborhood representative to coordinate residents' response to the Shade Hotel application. A small group of us, Teresa Cho, Steve Wibel, Jeff Dooley, Aksi Kikut, Stephanie Hubbard and me, have worked two months, since the July 22 hearing, to arrive at a consensus. Don McPherson joined our group, because none of us have experience in the city approval process, although we are learning fast.

As seen from the distribution list of the covering email, we keep a large number of residents informed of our actions. This week, we mailed to 150 residents and property owners in the neighborhood a flyer, with an opinion form for them to send to the city. To date, as result of our communication efforts, we have received no comments contrary to our consensus.

This letter outlining our position on the Shade application provides:

- A summary of the conditions we require in the use permit (Exhibit R-A)
- A detailed analysis of violations by Shade during the past four years, which have seriously disturbed the peace and quiet of our neighborhood (Exhibit R-B)
- Methods that possibly will mitigate the noise impacting the neighborhood (Exhibit R-C).

Having just received the city acoustic engineering report two days ago, we make a few observations, but will add an analysis of the report to our input, on Monday, October 26.

Our Consensus Regarding Items in the Shade Application.

Regarding the changes requested by Mr. Zislis, we support the folding door across the entry to the courtyard, although of sound-absorbing material, not glass. Lunch also receives our support. Despite Mr. Zislis's claim that Shade complies with the alcohol-food ratio condition in the ABC licenses, we believe compliance highly questionable. Consequently, legalizing the current violation of lunch service makes sense, to facilitate attaining compliance.

We oppose increasing special event attendance from 99, without requiring a temporary use permit. Until two weeks ago, in violation of the use permit, Shade never informed the city of special events over 99. Because the hotel disturbs the neighborhood, the city should retain the authority to limit special event attendance, in order to reduce intensity of the nightclub scene.

We also oppose any extension of hours, either in morning or evening, until Mr. Zislis stops the violations of noise regulations in the municipal code and conditions in the use and entertainment permits that cause the disturbances in our neighborhood.

Recognizing that the city might extend hours for the Zinc bar to midnight on Fridays and Saturdays, we stipulate a set of conditions, under which the commissioners might conceivably make a legitimate finding that an extended closing time would not impact the neighborhood.

Our Consensus Regarding Use Permit Conditions (Exhibit R-A).

Although hotel management routinely and blatantly violates municipal code and permit requirements, lax enforcement by the city constitutes the root cause of the disturbances that wrack our neighborhood weekly. We believe the city role as property owner and landlord contributes significantly to their turning a blind eye to Shade violations, these past four years.

The use and entertainment permits, as currently approved, provide adequate means for the city to require that Mr. Zislis operate Shade as a hotel, rather than a nightclub. For example, Finding O in PC Resolution 05-08 requires a sound wall between the Zinc bar and the lobby. Mr. Zislis did not install that noise-reducing wall, nor has the city enforced the requirement.

RESIDENTS' INPUT ON SHADE HOTEL APPLICATION

Planning Commission Hearing, October 28, 2009
Nate Hubbard, 1300 N Ardmore Ave, natehubz@mac.com

Exhibit R-A, first page, illustrates the soundproofing required for the Zinc bar by Finding O in Resolution 05-08, as quoted at the top of the page. For the underlying drawing of the Zinc-lobby-terrace area, we have used Figure 2-23 in the city acoustic report, in which staff has oddly proposed running a wall through the lobby as a sound barrier. The staff-proposed wall also blocks access to the hotel reception desk by guests entering from the front door.

Suggesting deletion of staff's sound wall in the lobby, we show in Exhibit R-A, first page, the retractable partition that separates Zinc from reception, as required by the use permit. Finding O requires Zinc soundproofing to a sound transmission coefficient STC-50, a -50 dB noise reduction, or a factor of 100,000. Furthermore, the entertainment permit requires Shade to demonstrate compliance with STC-50, as shown at the bottom of Exhibit R-A, first page.

If the city had enforced the requirement to soundproof the Zinc bar, that would have spared our neighborhood from four years of nonstop noise and music disturbances. The use permit also stipulates closing times for the skydeck, terrace, Zinc bar and special events, which the city has not enforced, as evidenced by the violations analysis in Exhibit R-B. The entertainment permit also prohibits valet service at the hotel entrance after 10 PM Friday and Saturdays, another requirement violated by Shade and not enforced by the city.

The second page of Exhibit R-A summarizes the use permit conditions we require, most of them already included in Resolution 05-08 and the entertainment permit. Our summary of conditions clarifies the language, while providing a logical organization for ease of understanding and enforcement. After analyzing the city acoustic engineering report, we will provide a more detailed description of our use permit conditions, Monday, October 26.

Shade Violations Documentation, Nov 2005 - Present (Exhibit R-B).

The Shade violations analysis contains its own summary, as well as 16 exhibits documenting proof for all eight types of violations. Since start of operations, as of September 2009, the police received 97 calls of disturbances at Shade, approximately two a month, while never issuing the hotel a citation. According to the neighbors, they failed to report many of the disturbances. In Exhibit R-B, if nothing else, please read the residents' accounts of the disturbances, starting 2006 and continuing up to incidents one week ago, October 16-17.

You will find residents accounts of disturbances at Exhibits B, C, D, G, I, and J.

Noise Mitigation Methods.

You received a copy of the noise mitigation analysis in late August. Exhibit R-C has updated analysis to include a preliminary critique of the city acoustical engineering report.

Astoundingly, the city did not evaluate the only noise mitigation method required by the current use permit, Resolution 05-08, namely soundproofing the Zinc bar, required by Finding O.

Additionally, the report does not provide commissioners the necessary data to validate the city claim that Shade does not violate the quantitative sound levels stipulated in municipal code, Section 5.48.160 External Noise Standards. To make that validation, commissioners require the dB values at the periphery of the Shade property, adjacent to city right of way.

The city also suppressed showing the dB levels existing inside the Zinc bar and terrace.

Conclusions. The current use and entertainment permits contain most of the requirements necessary to stop Shade from disturbing the neighborhood, if the city enforced the regulations. On Monday October 26, we will update our input with the approach to solve the problems.

Thanks for your consideration of our input, Nate Hubbard

RESIDENTS' INPUT ON SHADE HOTEL APPLICATION

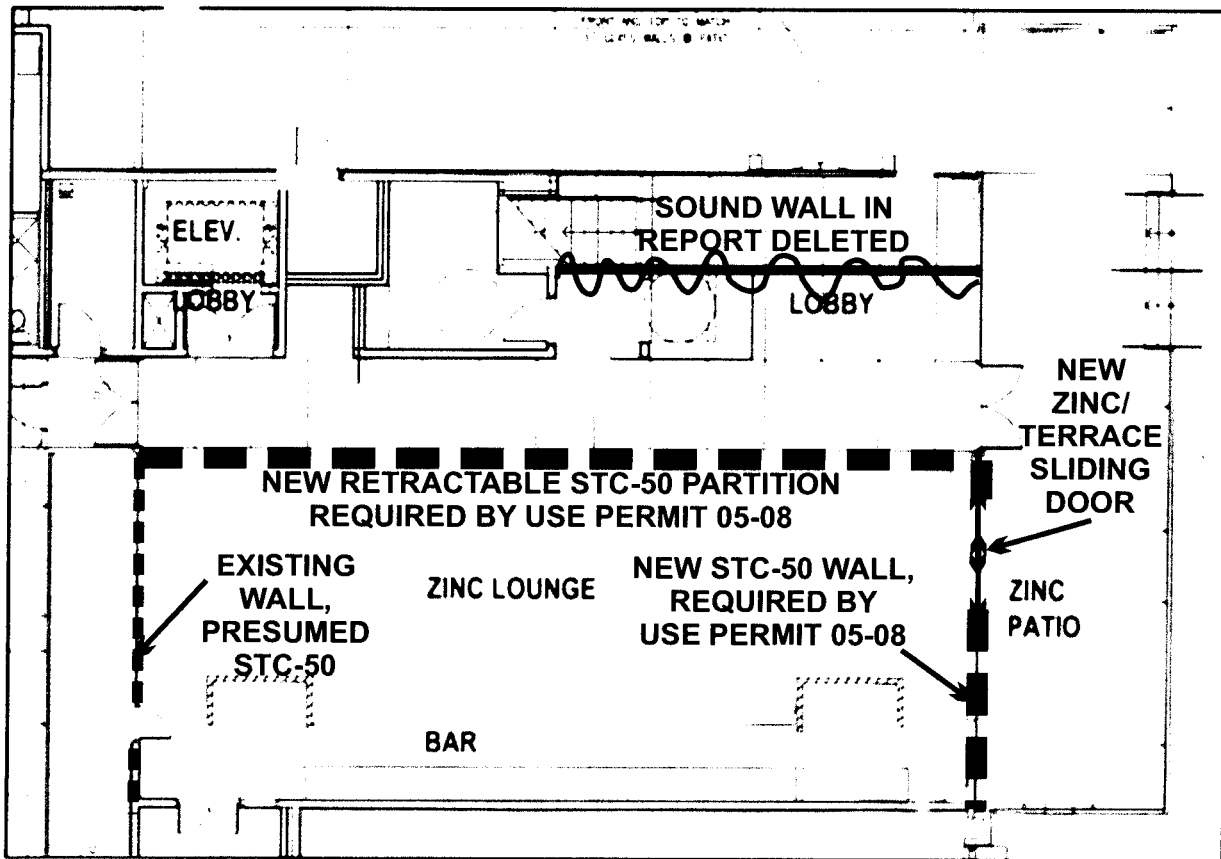
Planning Commission Hearing, October 28, 2009
Nate Hubbard, 1300 N Ardmore Ave, natehubz@mac.com

EXHIBIT R-A: LAYOUT OF ZINC SOUNDPROOFING REQUIRED BY USE PERMIT RESOLUTION 05-08

Text of Finding O, PC RESOLUTION 05-08, Shade amendment to use permit.

O. Potential noise concerns will be addressed through the review of the annual Entertainment Permit as well as a retractable partition in the Living Room will be installed which is capable of separating the Wine Bar/Living Room facility from the reception area. The walls and partition of the Living Room will insulate the sound produced by events as the room will have a STC (Sound Transmission Code) rating of 50.

- Notes:
- Underlying graphic taken from acoustic engineering report, Figure 2-23.
 - STC-50 standard in ASTM E 90, Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements



AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March I, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Use Permit Condition 4. Noise mitigation strategies shall be implemented including door, wall and ceiling treatments, as required within the Zinc Lounge and Zinc Terrace area in order to mitigate noise. The Zinc Lounge shall demonstrate that the insulation achieves an STC (Sound Transmission Code) rating of 50 to mute the noise.

RESIDENTS' INPUT ON SHADE HOTEL APPLICATION

Planning Commission Hearing, October 28, 2009
Nate Hubbard, 1300 N Ardmore Ave, natehubz@mac.com

EXHIBIT R-A: RESIDENTS' SHADE USE CONDITIONS

(Partial list of higher priority conditions. Complete listing provided in filing, 26 Oct 2009)

Assumptions and Definitions.

Assumption 1. The city will enforce the requirement in PC Resolution 05-08 that the Zinc bar must have a retractable wall between it and the lobby, and that the bar area complies with a sound transmission coefficient of STC-50 outside its walls and ceiling.

Assumption 2. The terrace, skydeck, and courtyard will comply with sound reduction requirements, to-be-determined, from the Behrens acoustic engineer report.

Closed or closing-time definition. Area vacated by all customers and alcohol sales ended, including room service and in-room service.

Special event definition. An event under contract that has exclusive use of one or more venues. Contractual events that use only a portion of a venue will end at that venue closing time. Special events cannot exceed the closing times of the terrace or skydeck.

Hours of Alcohol Service: Restricted to Venues Identified below; No Other Spaces Permitted.

Venue/Event/Services	Closing Time	End Alcohol Service Before Closing, Minutes
Zinc bar and lounge, Fri-Sat	11 PM desired, plus special events	30
Zinc bar and lounge, Sun-Thu	11 PM, plus Special Events	30
Terrace	11 PM; no exceptions	30
Conference (Green) Room(s)	Special events only; no public	Same as special events
Penthouses, two	Special events only ; no public	Same as special events
Skydeck	10 PM; no exceptions	60
Courtyard	Special events only; no public	Same as special events
Special Events	Midnight, except terrace & skydeck	60
Room Service, Alcohol	Same as Zinc	0; Zinc closing time

Space Layouts.

- Except for special events, all alcohol-serving venues shall maintain tables, chairs, and other furnishings as typical of daily hotel operations, for which the Fire Department will determine maximum occupancies. Arrangements shall expedite food consumption.
- For special events, the applicant shall provide event space layouts representative of typical serving table and seating arrangements, for which the fire department will determine maximum occupancies. Arrangements shall expedite food consumption.
- Under no circumstances shall the lobby area east of the Zinc retractable wall be used for general public or event alcohol consumption.

Ingress-Egress Control.

- Metlox Plaza valet service shall move from the Shade entrance
- After 10 PM, Shade valet for drop-off and pickup shall move to the Metlox valet location
- Taxi pickups and drop-offs at the Shade entrance shall be prohibited after 10 PM
- The city shall prohibit taxi pickups and drop-offs on Valley Dr after 10 PM
- The Zinc queue shall move to the west-side Shade door. The hotel shall obtain an encroachment permit to align the queue on the Metlox Plaza, along the hotel west wall.

SHADE FREQUENTLY VIOLATES MANY REGULATIONS

Summary.

Since opening in November 2005, the Shade Hotel has frequently and blatantly disturbed the peace and quiet of the residential neighborhood lying east across the Valley-Ardmore parkway, as attested by 97 police calls for disturbances, averaging over two a month. The municipal code prohibits such noise disturbances, at MBMC §5.48.140.

The suffering residents, unfortunately, have lost the quiet enjoyment of their homes, as guaranteed by law. Why? With Shade, when 'enforcing' the noise-disturbance regulation, the city pulls its punches, to softly tap the management on the cheek. They will cite a barking dog without a qualm, but in four years of nonstop outrageous disturbances, have never cited Shade.

The Metlox use permit and amendment specifically define Shade as primarily a hotel to attract visitors, in order to patronize downtown businesses. Instead, the management, headed by Mr Michael Zislis, operates the hotel primarily as a raucous nightclub, catering to that clientele. The Zinc bar profits from notoriety as a wildly-popular destination for singles and 'cougars.'

According to occupancies allowed by the fire department, hugely increased in December 2008, Shade can host almost 500 patrons in its several alcohol venues. A small boutique hotel? Compare with the Redondo Crowne Plaza; it maxes out at 1000, just twice the Shade capacity.

To goose alcohol revenue, Shade frequently violates seven other regulations in its use and entertainment permits. This paper, in 16 exhibits, provides documented evidence proving the violations. Next, highlights from the table of Shade violations, provided on the following page.

Shade Violation Highlights.

Noise disturbance heads the violations. If nothing else, please read the personal accounts by residents, Exhibits B, C, D, G, I, and J. These accounts put you on the ground beside them, as they struggled three years to deal with their life-destroying nemesis. For four years, city and Shade have offered complacent assurances, but the disturbances implacably continue unabated, if not worse.

For the number two violation, in its most egregious offence, the city has deliberately ignored a use permit requirement that would have saved residents from countless sleepless nights and much anguish. In the 2005 amendment that permitted full alcohol service at Shade, a finding requires sound absorbing materials in the Zinc bar to meet a uniform building code (UBC) requirement for hotels of a -50 dB sound transmission coefficient, STC-50, a factor of 100,000 noise reduction. Compliance would make the Zinc bar scene inaudible in the neighborhood.

The city rigorously makes us meet UBC and other permit requirements. Why not Shade?

Possible Additional Violations.

The Shade alcohol licenses require that alcohol sales not to exceed food. Shade provides free breakfasts to guests, typically has fifteen people for lunch (prohibited by the use permit, Violation 5 next page), and at night, serves only appetizers. In contrast, hundreds of patrons drink for hours on busy nights, making compliance with the alcohol-to-food ratio questionable.

Alcohol service must stop at 9:00 PM for the Skydeck and 10:30 for Zinc. If Shade complies, why does the It-Crowd waste its drinking time, by hanging out until midnight, or later?

SHADE FREQUENTLY VIOLATES MANY REGULATIONS

Regulation	Requirement	Evidence
<p><u>Violation 1</u></p> <ul style="list-style-type: none"> ●Municipal Code §5.48.140 ●Entertainment Permit, 19Dec08, Comm. Dev. No. 5, Music volume outside of hotel not so loud as to disturb neighbors 	<ul style="list-style-type: none"> ●MBMC 5.48.140 ...” it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness.” 	<ul style="list-style-type: none"> ●24Jun & 22 Jul 09 hearings: 11 residents testified on noise disturbances (Exhibit A) ●N Hubbard email correspondence, 23May07-11Dec07 (Exhibit B) ●Wible email correspondence, 16Apr08-9Nov08. Noise/music disturbances documented back to 20Sep06 (Exhibit C) ●Dooley emails on noise/music disturbances: 23Jul09 and 16-17Oct09 (Exhibit D) ●MBPD calls: 97 during 12Nov05-27Sep09; 14 since 24Jun09 PC hearing (Exhibit E)
<p><u>Violation 2</u></p> <ul style="list-style-type: none"> ●PC Reso 05-08, Finding O ●Entertainment Permit, 19Dec08, Use Permit No. 4 	<ul style="list-style-type: none"> ●Requires a retractable partition between Zinc area and reception. Walls and partition must meet sound transmission coefficient of STC-50. The entertainment permit additionally requires demonstration of STC-50. 	<ul style="list-style-type: none"> ●Not shown on Shade plans ●Not shown in Shade Event Space Layout in Entertainment Permit, 19Dec08 (Exhibit F) ●Not observed as per McPherson declaration, 13Oct09 (Exhibit G) ●No STC-50 compliance demonstration on record, as required by entertainment permit
<p><u>Violation 3</u></p> <ul style="list-style-type: none"> ●PC Reso 5770, Condition 30 ●PC Reso 05-08, Condition 9 	<ul style="list-style-type: none"> ●Skydeck hours: 9 PM end of alcohol service; 10 PM close ●No exceptions permitted 	<ul style="list-style-type: none"> ●Shade Website advertises special events on skydeck to 11 PM on Thu-Sat (Exhibit H) ●S Hubbard email alleging operations to 11 PM and after, 4Sep09 (Exhibit I) ●N Hubbard email alleging operations to 11 PM and after, 5 Sep09 (Exhibit J)
<p><u>Violation 4</u></p> <ul style="list-style-type: none"> ●Entertainment Permit, 19Dec08, MBFD Occupancy 	<ul style="list-style-type: none"> ●Skydeck occupancy: 3 Oct 08: 45 maximum 19 Dec 08: 92 maximum 	<ul style="list-style-type: none"> ●Staff email, for 5Jul08 disturbance, a skydeck birthday party with 104 occupancy (Exhibit K) ●Excerpt, 3 Oct 2008 permit (Exhibit L) ●Excerpt, 19 Dec 2008 permit (Exhibit M)
<p><u>Violation 5</u></p> <ul style="list-style-type: none"> ●PC Reso 05-08, Finding L 	<ul style="list-style-type: none"> ●Prohibits serving lunch, other than room service 	<ul style="list-style-type: none"> ●Minutes for PC hearings, 24 Jun 2008 and 22 Jul 2008
<p><u>Violation 6</u></p> <ul style="list-style-type: none"> ●PC Reso 05-08, Condition 2 ●Entertainment Permit, 19Dec08, MBPD No. 1 and Comm. Dev. No. 2 	<ul style="list-style-type: none"> ●Special events over 99 require a temporary use permit ●MBPD-1 requires notification of entertainment 7 days prior ●Community Development requires 14-day notice of terrace/skydeck entertainment 	<ul style="list-style-type: none"> ●Staff email, 30 Sep 09: Neither MBPD nor Community Development have received any requests for over 99 limit special events. Shade submits 1st events notice, in response to Jester email. Haaland email states no entertainment notices on record, in violation of Entertainment Permits (Exhibit N)
<p><u>Violation 6</u></p> <ul style="list-style-type: none"> ● PC Reso 05-08, New Condition 4 	<ul style="list-style-type: none"> ●Skydeck will not be marketed to general public 	<ul style="list-style-type: none"> ●Brent Taylor email to planning commission, 17 Jul 2009: Public ad for commencement of skydeck Sunday pool parties (Exhibit O)
<p><u>Violation 8</u></p> <ul style="list-style-type: none"> ●PC Reso 05-08, Finding L ●Entertainment Permit, 19Dec08, Comm Dev No. 5 	<ul style="list-style-type: none"> ●Terrace hours: 10:30 PM end of alcohol service; 11 PM close ●Only “background” music allowed after 10 PM 	<ul style="list-style-type: none"> ●Patio occupied past 11 P.M. often in past years, Steve Wible declaration, (Exhibit P) ● Many people on patio at midnight, 23 Jul 2009 (Dooley Exhibit D) ●Many people on patio near midnight, 31 Jul 2009 (McPherson Exhibit G)

EXHIBIT A

RESIDENT TESTIMONY: SHADE MATERIALLY DISTURBS THEIR PEACE AND QUIET

24 June 2009 PC Minutes.

- **Robert Lytle**, 500 block of 13th St, can hear the noise of patrons and bands playing from his home.
- **Teresa Cho**, 500 block of 12th St, can hear noise of hotel and bar in her children's bedrooms. The hotel envisioned as an inn has become a singles bar.
- **Nancy Giallombardo**, 1100 block of N Ardmore, has called the hotel and police. She can hear noise after 11:00 PM., and which would become worse if hours extended. The hotel originally proposed as a quaint boutique hotel has become a nightclub. They keep their patio doors closed because of the noise, which is uncomfortable in warm weather.
- **Stephanie Hubbard**, 1300 block of N Ardmore, can hear conversations at the hotel in her bedroom. She says Shade is not only a hotel, but also a bar.
- **Shaiko Wiser**, 500 block of 13th St, says her bedroom window lies across the street from the hotel, and she has trouble sleeping, because of music, laughter, conversation and noise coming from the hotel. She indicated that additional noise from extended hours would impact the neighbors.
- **Mike Welsh**, 600 block of 13th St, can hear conversations taking place at the hotel from his living room. He says he can hear grooms repeating their vows on the skydeck.
- **Jeff Dooley**, 1200 block of N Ardmore, said he moved across the street from Shade, leaving his former residence near Mr. Zislis's Muchos, to get away from the noise. He said there is still noise from Shade after hours of operation.
- **Joan Mueller**, 1200 block of N Ardmore, said she used to contact Shade and the police, without any results. Now they close their windows and run a fan in the bedroom to drown out the Shade noise. She stated that the neighborhood has a petition signed by 75 residents opposing the extended hours
- **Brent Taylor**, 500 block of 12th St, says he can clearly hear the vocals of music played by Shade.
- **A young girl** testified she goes to school tired Friday and Monday mornings, because of noise from Shade.

22 July 2009 PC Minutes.

- **Jackie Coweiser**, 500 block of 13th Street, said that she can hear every conversation at the hotel from her home.

EXHIBIT B

NATE HUBBARD EMAIL RECORD ON SHADE DISTURBANCES

Three police calls in One Month, May-June 2007

From: Laurie B. Jester [<mailto:ljester@citymb.info>]

Sent: Monday, June 04, 2007 12:51 PM

To: Nate Hubbard

Cc: steffhubz@adelphia.net; bessiea@yahoo.com; b_krizman@yahoo.com; giabardo@adelphia.net; djshaeway2play@webtv.net; dmteeth@yahoo.com; rjmuellet@msn.com; mirelle1212@msn.com; pmuenchow@msn.com; Richard

Thompson; Mike Zislis; JVought@shadehotel.com; mbacic@shadehotel.com; Randolph Leaf; Dale Reissig

Subject: FW: shade Hotel- Noise complaint and May 19th noise issues

Staff response regarding a Shade noise disturbance on 19 May 2007

Nate-

Below is an e-mail that the Shade Hotel asked me to forward to you all that responds specifically to the noise complaint on May 19th. The CC's are from an old list that I have so if they are outdated or you have others that you want to copy please feel free to do so. I did not have Steve Weibles (sp?) address, so I would appreciate you forwarding this to him too.

Attached Shade emails, next two pages

I met with Mike Zislis on May 25th and discussed the noise issues that you have been experiencing. He indicated that they will be and/or have made the following changes to address concerns.

- Valet- The pick up stand has been relocated to near Petros so that people are not congregating in front of the hotel. Late at night the valet is in the garage.
- Security- Hotel staff informs patrons that they need to be respectful of the neighbors and not congregate, but move along to their destination.
- Patio screens- Additional glass screens 2 tiers high on 2 sides are proposed around the outdoor patio on the Valley side- these need to be submitted to, reviewed and approved by the City.
- Loading- gifts from parties and events will not be loaded in front of the hotel late at night. Hotel staff will use Morningside so that patrons are not congregating in front of the hotel.

You may know that the City Council recently approved a taxi stand on Morningside. When this is implemented in the next few months people will be directed to the new location instead of congregating in front of the hotel to wait for a taxi.

Here are copies of portions of some of the sections of the Resolution approving the revisions to the Hotel alcohol and special events. I think you have the entire Resolutions, if not I can forward them to you.

If you have complaints about noise or other issues you should contact the Police Department directly at 802-5140.

Thank you-
Laurie Jester

EXHIBIT B

Staff's attachment, next two pages: emails between Shade and disc jockey vendor

From: Jolise Vought [<mailto:JVought@shadehotel.com>]
Sent: Wednesday, May 23, 2007 12:31 PM
To: KC Campbell
Cc: Kristopher Campbell; Jen Peterson; Michael Zislis
Subject: RE: Sat 5.19?

KC,

I have been meaning to talk to you about last Saturday's event. We do our best to be compliant with our neighbors and the city. Ethan, your DJ, was non-compliant with the regulations we have about the noise level. It was very disappointing when he would listen to the guests as they wanted the music turned up even though we spoke about the noise level at the beginning of the party and throughout. I had to constantly ask him to turn the music down which I would find to be turned right back up later. Although Ethan was pleasing the client he did not respect our policies or the agreement that the client had signed with us regarding noise and music. Because of this non-compliant behavior we can no longer allow clients to use DJ Ethan and Mike Zislis is considering to not permit Vox DJ's services as well.

We take complaints from the city and our neighbors very seriously and would hope that you too would respect and understand this.

We will follow up with you soon.

Regards,
JoLise and Jen
Events Department
JoLise Vought
Events Coordinator
Shade Hotel
310.698.5557 d
310.546.1323 f
jvought@shadehotel.com

From: KC Campbell [<mailto:kc@voxentertainment.com>]
Sent: Wednesday, May 23, 2007 12:55 PM
To: Jolise Vought; Jen Peterson
Cc: kc@voxdjs.com; 'Luke Manthe'; Michael Zislis
Subject: FW: Sat 5.19?

Jolise,

I am very sorry to hear this! Ethan has always been respectful and courteous to our clients (and Luke and myself), so I would assume he would treat you and the hotel with the same respect.

I am sorry that he has not done so in this case.

EXHIBIT B

I can assure you that every VOX DJ from here on out that performs at Shade will honor your sound ordinances and follow your rules, as your account is very important to us. (As a DJ, sometimes you are caught in the middle of the party crowd and the client saying "turn it up"! and the venue saying "Turn it down"!)

We understand from now on that Shade hotel has strict noise regulations and will definitely honor your requests over the clients at future events.

Please forgive Ethan, this will not happen again.

Thank you!

KC Campbell

Division Manager • DJ/MC

VOX DJs, A Division of VOX Entertainment, Inc.

office 310 • 535 • 5510 • Ext 307

cell 310 • 908 • 2267

email kc@voxdjs.com

www.voxdjs.com

-----Original Message-----

From: Jolise Vought [<mailto:JVought@shadehotel.com>]

Sent: Tuesday, May 29, 2007 3:21 PM

To: Laurie B. Jester

Subject: FW: Sat 5.19?

Hi Laurie,

Here are the correspondence between Vox DJ's and myself. I assure you we will never use DJ Ethan again and Vox DJ's has guaranteed their cooperation in the future.

Thanks,
JoLise

JoLise Vought
Events Coordinator
Shade Hotel
310.698.5557 d
310.546.1323 f
jvought@shadehotel.com

**End of staff's two-page attached emails to
Hubbard, about Shade disturbance on 19 May 2007**

EXHIBIT B

New Shade disturbance, Fri 8 Jun 2007

-----Original Message-----

From: Nate Hubbard [mailto:nate@migrateditors.com]

Sent: Saturday, June 09, 2007 6:59 PM

To: Laurie B. Jester; steffhubz@verizon.net

Cc: bessiea@yahoo.com; b_krizman@yahoo.com; giabardo@adelphia.net; djshaeway2play@webtv.net; dmteeth@yahoo.com; rjmueller@msn.com; mirelle1212@msn.com; pmuenchow@msn.com; Richard Thompson; 'Mike Zislis'; JVought@shadehotel.com; mbacic@shadehotel.com; Randolph Leaf; Dale Reissig; Richard Montgomery; Nick Tell

Subject: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

To All...We called the police dept last night (Fri 6/8/07) at midnite.

There were about 10 drunken patrons out in front of Shade on Valley. A large bus had also been parked out in front of Shade for about 15 min.

The police dispersed the drunks and sent the bus to Morningside.

While the officer called us on the phone to tell us the resolution, the bus returned around. He again sent it on its way with a threat of a ticket if it returned to Valley. The bus parked at 13th & Morningside and turned off its lights.

The officer was unaware that there was no valet or bus pickup on Valley after 9pm. Can we notify the police dept to this issue so they can be proactive to this irritating noise issue.

It would also solve a lot of problems if after 9pm, we could have these three things happen

- 1- Close the walk-in entrance AND exit to Shade from the Valley entrance... no "waiting line" for the bar
- 2- Cone-off the Valley drive-up entrance to Shade.
- 3- Close the entrance to the parking structure on Valley.
- 4- Have the Shade management be a little more aware when their patrons are making noise on the Valley side of the hotel

This would make for a "no stopping zone" on Valley and force the patrons and buses, taxis and cars over to Morningside.

Please help us in any way possible to cut down on the loud and excessive noise from Wed to Sat night EVERY week.

Thanks Nate Hubbard

Ps. Stephanie Hubbard is now steffhubz@verizon.net

**Hubbard states
Shade creates
excessive noise
Wed-Sat, every week**

EXHIBIT B

Councilmember Montgomery's response to Shade disturbance, Fri 8 Jun 2007

From: richard montgomery [mailto:rpm.mb@verizon.net]
Sent: Sunday, June 10, 2007 5:16 PM
To: Nate Hubbard; gdolan@citymb.info
Cc: Stephanie Hubbard; pcohen@citymb.info
Subject: Re: NEW Shade Hotel- Noise complaint and Jun 8th noise issues
Importance: High

Nate,

I regret hearing that this "noise issue" has happened again. I will ask that our city manager [Geoff Dolan] and or our community director [Richard Thompson] speak with the owner of Shade to address the most recent issue and the four items you proposed below. If appropriate, I can attend that meeting as well. Sincerely, Richard
Richard P. Montgomery
Council Member - City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Hubbard replies, if he had a choice, he would not live in the downtown area, in conflict with mixed-use goals and policies in the city General Plan: Goal LU-5 & Policy LU-5.7, Goal LU-6 & Policy LU-6.4, and Goal LU-7 & Policy LU-7.6

From: Nate Hubbard [mailto:nate@migrateditors.com]
Sent: Sunday, June 10, 2007 5:32 PM
To: 'richard montgomery'
Cc: 'steffhubz@verizon.net'
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues
That would be awesome Richard. It's not that the noise issue has abated any, it's that we've become resigned to the noise and gotten used it for the most part. If I had a choice, I wouldn't live in the downtown area anymore because of this issue.

Unfortunately, this will have "disclosed" for any seller in the area.

On another note, my daughter Celia was pretty impressed that the MB City Council showed up for the Friendship Circle dinner. She's a sophomore star in Model UN at Costa, not to mention being on the Dance Team and Sand Debs. I tried to get her to do Leadership Manhattan but she just didn't have enough time!! I wanted to do it also but it's hard for a free-lance working stiff to quit work at 4:30 every other Fri.

As always, thanks for your timely response!

Nate

EXHIBIT B

Staff responds that they contacted Shade again to control disturbances

From: "Laurie B. Jester" <ljester@citymb.info>
To: "Nate Hubbard" <nate@migrateditors.com>, <steffhubz@verizon.net>
CC: <bessiea@yahoo.com>, <b_krizman@yahoo.com>, <giabardo@adelphia.net>, <djs
haeway2play@webtv.net>, <dmteeth@yahoo.com>, <r-
jmueller@msn.com>, <mirelle1212@msn.com>, <pmuenchow@msn.com>, "Richard
Thompson" <rthompson@citymb.info>, "Mike Zislis"
<zislis@shadehotel.com>, <JVought@shadehotel.com>, <mbacic@shadehotel.com>, "R
andolph Leaf" <rleaf@citymb.info>, "Dale Reissig" <dreissig@citymb.info>, "Richard
Montgomery" <Rmontgomery@citymb.info>, "Nick Tell" <ntell@citymb.info>, "Carol
Jacobson" <cjacobson@citymb.info>, "Geoff Dolan" <gdolan@citymb.info>
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues
Date: Mon, 11 Jun 2007 08:58:04 -0700

Nate and Stephanie-

I have asked Mike and Milo to respond to you all directly to address these issues. I suggested that they host another neighborhood meeting ASAP.

Special events are allowed by the Use Permit to go to midnight. Patrons out front at midnight so loud that it disturbs the neighbors is a problem.

No bus pickup after 9 is not a Use Permit violation- but the Shade did make a commitment to the neighbors and the City to do this on Morningside.

Regarding suggestions #2 and 3 below- There would be traffic circulation issues that would affect the entire parking structure and Metlox center that would need to be carefully evaluated and we have concerns about these suggestions.

Laurie

Resident Laura Muenchow urges neighbors to call police every time, not Shade

-----Original Message-----

From: PAUL MUENCHOW [mailto:pmuenchow@msn.com]

Sent: Monday, June 11, 2007 12:30 PM

To: Laurie B. Jester; Nate Hubbard; steffhubz@verizon.net

Cc: bessiea@yahoo.com; b_krizman@yahoo.com; giabardo@adelphia.net; djshaeway2play@webtv.net; dmteeth@yahoo.com; r-jmueller@msn.com; mirelle1212@msn.com; Richard

Thompson; zislis@shadehotel.com; JVought@shadehotel.com; mbacic@shadehotel.com; Randolph Leaf; Dale Reissig; Richard Montgomery; Nick Tell; Carol Jacobson; Geoff Dolan

Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Hello Nate -

We were not home on Friday - so missed out on the aggravation . . .

EXHIBIT B

It's unfortunate that this is coming up again. I appreciate your follow up and keeping us in the loop. I encourage all recipients to **always call the police with every occurrence rather than just the folks at Shade** - as Nate & Stephanie have done - so that these annoyances are recorded - every single time. You've made some excellent suggestions - that if followed - would greatly improve the quality of life (and ability to get a good night's rest) for Shade's neighbors.

Also - has anyone heard of any updates regarding the parking issues?? Remember the "study" that was supposed to begin last summer? I vote for permit parking - for residents on the impacted streets - Ardmore for sure - Manhattan Beach Blvd. to 15th Street.

The Downtown parking study is ongoing- we are currently doing summer counts, after adding those to the counts from the other seasons we will bring the report forward end of summer

Sincerely,
Laura Muenchow
home: 310.796.0500
cell: 310.991.0598

Staff responds to Muenchow on parking issue, but not Shade disturbances
--

-----Original Message-----

From: Laurie B. Jester

Sent: Tuesday, June 12, 2007 10:25 AM

To: 'PAUL MUENCHOW'; Nate Hubbard;steffhubz@verizon.net

Cc:bessiea@yahoo.com; b_krizman@yahoo.com; giabardo@adelphia.net; djshaeway2plaiy@webtv.net; dmteeth@yahoo.com; r-jmueller@msn.com; mirelle1212@msn.com;

Richard

zislis@shadehotel.com; JVought@shadehotel.com; mbacic@shadehotel.com;
Randolph Leaf; Dale Reissig; Richard Montgomery; Nick Tell; Carol Jacobson; Geoff Dolan; Rosie Lackow; Erik Zandvliet

Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

See below- in yellow ("see above in yellow" Ed.)

Laurie

EXHIBIT B

Shade email referred to by staff below not available

From: Laurie B. Jester [<mailto:ljester@citymb.info>]
Sent: Thursday, June 14, 2007 4:21 PM
To: Nate Hubbard; steffhubz@verizon.net
Cc: bessiea@yahoo.com; b_krizman@yahoo.com; giabardo@adelphia.net; djshaeway2play@webtv.net; dmteeth@yahoo.com; r-jmueller@msn.com; mirelle1212@msn.com; Richard Thompson; zislis@shadehotel.com; JVought@shadehotel.com; mbacic@shadehotel.com; Randolph Leaf; Dale Reissig; Richard Montgomery; Nick Tell; Carol Jacobson; Geoff Dolan; Rosie Lackow; Erik Zandvliet; Katie Kruff; PAUL MUENCHOW
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Please see the attached e-mail that has the response from the Shade Hotel- Katie Kruff did not have all of your e-mail addresses so she asked me to forward this to you all.
Laurie

Hubbard responds to Shade's email and introduces his concept for glass panels on terrace open east side

From: Nate Hubbard [<mailto:nate@migranteditors.com>]
Sent: Saturday, June 16, 2007 10:51 AM
To: 'Laurie B. Jester'; steffhubz@verizon.net
Cc: bessiea@yahoo.com; b_krizman@yahoo.com; giabardo@adelphia.net; djshaeway2play@webtv.net; dmteeth@yahoo.com; r-jmueller@msn.com; mirelle1212@msn.com; 'Richard Thompson'; zislis@shadehotel.com; JVought@shadehotel.com; mbacic@shadehotel.com; 'Randolph Leaf'; 'Dale Reissig'; 'Richard Montgomery'; 'Nick Tell'; 'Carol Jacobson'; 'Geoff Dolan'; 'Rosie Lackow'; 'Erik Zandvliet'; 'Katie Kruff'; 'PAUL MUENCHOW'; KKruff@shadehotel.com
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Ms. Kruff...thanks for the response. I'm glad we're all on the same page about addressing these issues. One additional problem I want to mention is that a lot of noise from the outdoor bar comes thru the opening near the front door of Shade. There is a lower curtain that gets pulled across which cuts down some of the racket. Milo had told me last fall that there was going to be an upper curtain or some other noise blocking solution which was to happen. If we could get this NE bound noise stopped, it would help us out. Even better would be a permanent glass structure from floor to ceiling. Please call me at 310-345-1301 if my description of the problem is vague. I can come down and show you.

Thanks Nate Hubbard

EXHIBIT B

Hubbard provides graphic concept of his concept for terrace glass panels, implemented six months later

From: Nate Hubbard [<mailto:nate@migrateditors.com>]
Sent: Saturday, June 16, 2007 7:04 PM
To: 'Nate Hubbard'; 'Laurie B. Jester'; steffhubz@verizon.net
Cc: bessiea@yahoo.com'; 'b krizman@yahoo.com'; giabardo@adelphia.net'; djshaewa.y2play@webtv.net'; dmteeth@yahoo.com'; 'r-jmueller@msn.com'; 'mirelle1212@msn.com'; 'Richard Thompson'; zislis@shadehotel.com'; JVought@shadehotel.com'; mbacic@shadehotel.com'; 'Randolph Leaf'; 'Dale Reissig'; 'Richard Montgomery'; 'Nick Tell'; 'Carol Jacobson'; 'Geoff Dolan'; 'Rosie Lackow'; 'Erik Zandvliet'; 'Katie Krufft'; 'PAUL MUENCHOW'; KKrufft@shadehotel.com
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Ms Krufft...to clarify my earlier email, I took a pix of Shade. There are 3 attachments
Shade1.jpg...Valley side front
Shade2.jpg...location of noise
Shade3.jpg..."photoshopped" version of closing off noisy area with glass.
I'm sorry my artistic skills aren't as good as they should be but I think these pictures get my idea across

Nate Hubbard

Stephanie Hubbard complaint on new disturbance, Wed 20 June 2007

From: Stephanie Hubbard [<mailto:steffhubz@verizon.net>]
Sent: Friday, June 22, 2007 6:33 PM
To: 'Nate Hubbard'; Katie Krufft
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Hi Katie,
Thanks for all your help with the noise situation. I just want to make you aware of a noise issue on Wednesday night. A limo arrived at about 2:45am carrying a load of noisy guests – or maybe they were departing (who knows?) Anyway, the limo and the noisy guests were outside the hotel and woke us up. We waited about 10 minutes and when the noise didn't stop on its own (guests go in... limo leaves...) we called the police. Normally we would have called the hotel, but truthfully it was too late and I didn't want to turn on a light and look for your phone number. Then I would never have been able to go back to sleep.

Anyway... it makes me think! Whoever is on the desk in the wee hours needs to really be aware that big limo engines can be loud and arriving or departing guests need to do so QUICKLY in the late night hours. At night, the winds off the ocean carry the noise right into our windows and makes us feel like we are staying at your hotel.

Thanks again for your help.

Stephanie Hubbard

EXHIBIT B

**Shade response to Stephanie
Hubbard email**

From: Katie Krufft [<mailto:KKrufft@shadehotel.com>]
Sent: Saturday, June 23, 2007 8:42 AM
To: Stephanie Hubbard; Nate Hubbard; Reynaldo Angeles; Catie Boles
Cc: bmetoyer@ParkPCA.com; Christopher Davidson; Katie Krufft
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Stephanie,

Thank you for bringing this to my attention. I have copied our night auditors, Catie and Reynaldo, on this email as they would be the ones who would need to handle situations such as these on slower nights (Sun-Wed).

Catie and Reynaldo, please make sure the driveway is clear at all times and call the police if guests do not respond to your request to quiet down. Please email me any questions or concerns you may have about this.

I will speak with our valet company about coning off the driveway on weekdays as well...once all check-ins are in, there is no reason for anyone to drive there. We'll have to just tell people to go around to Morningside. I also spoke with Clarence Carter, our Head of Security, at length about the noise issue. He gave me some insight which I will share with you once I have done my research and come up with a solution.

Do you know when Nate will be back? Mike would prefer to postpone the meeting until he gets back. Please let me know what you think.

Sincerely,

Katherine Krufft
Hotel Manager
Shade Hotel
310.698.5558 d
310.545.5491 f

BOTTOM LINE

Despite repetitive assurances from staff, a councilmember, police, and Shade, the disturbances routinely continue unabated to this day. The city has never cited Shade for many violations of the municipal code noise ordinance, the use permits, or the entertainment permit.

EXHIBIT C

STEVE WIBLE EMAIL RECORD ON SHADE DISTURBANCES

APRIL-NOVEMBER 2008

In this email record, based on inputs from staff, Councilmember Richard Montgomery does his best to address Steve Wible's concerns over Shade disturbances. Note: optical character recognition in scanned emails may have caused uncorrected errors.

untitled

apri16,2008

councilman richard montgomery;

re: the metlox development

my name is steve wible, former employee and building inspector for manhattan beach for 12+ years. In addition i am a 60 year resident (approx) and currently reside directly across from the metlox site on the eastside on ardmere. since the beginning, myself and the neighborhoods adjacent to this site have expressed concern with the parking, and the continued noise from this site. not only were the contractors, workers allowed to park in the surrounding neighborhoods, but would arrive at 530am and create enough noise to wake many of us and to cause the police to be called. also, after many complaints to the city, the parking was relocated to other areas. even before this problem arose, city council created the "CUP", conditional use permit for this site and drew up many conditions for the future businesses to follow. two (2) of these conditions have not been met, and possibly more. according to laurie jester, planner, the city has no way to enforce the parking requirement, and when the police are called, (so many times that i've lost count) the response from some officers was "you can file a civil suit, or the noise ordinance is too difficult to enforce". well that's not an acceptable answer especially when the "cup" states, "the maximum allowable sound level shall be in conformance with chapter 5.48 of the mbmc. I would appreciate your response and any views or positive steps the city is willing to take to help the surrounding neighborhoods regain the quality of life we once experienced prior to this development, thank you.

Shade must conform to the municipal code Noise Ordinance, MBMC 5.48

p.s i have attached a copy of a letter that i never sent, thinking that this situation was short term. wrong!

Attached letter next page

EXHIBIT C

**Attachment to the previous email from Wible to Mayor Pro
Tem Montgomery, which documented the Shade noise
problem in October 2006, one year after Shade opened.**

From: Leith Wible
To: c.i.manhattan-beach.ca.us/admin/council
Date: 9.20.2006 3:29:12 PM
Subject: metlox resolution#5770 ra: parking requirements

Leith Wible
Jinx1212@earthlink.net

My name is Steve Wible, former building inspector for Manhattan Beach, and approaching .50-years as a resident here and now semi-retired. I "sat-in" on the city council meeting on Tuesday Sept 19th to listen to my neighbors express their discontent relating to the parking problems around the adjacent neighborhoods of the METLOX development.... Although I didn't get up to speak, on this subject. I think it is time to bring up the METLOX RESOLUTION, which approved the construction of this commercial site. Under the GOALS and POLICIES.: #1.1 limit the height to protect views of the ocean. Our view was blocked by construction and our sunsets are approximately 1-hour earlier than before construction of this ARCHITECTUALLY- lacking structure. ,not to mention the lack of attention concerning the acoustics of the entire project. Valley Drive is now an echo chamber which reverberates easterly Into the neighborhoods. OOPS,SORRY. I got carried away. To get back to the resolution. GOAL#7-4 "the proposed use will not adversely impact nearby properties.(I think thats why. the neighborhoods were attending this council meeting), So much for the EIR. Under the OPERATIONAL section, #13" the facility operator shall prohibit employees from parking personal vehicles on the surrounding public streets... employees must park on-site or be transported to the site from other off-site parking facilities subject to community development approval. the property owner shall include prohibitions against employee parking on local streets in any lease and or rental agreements" When I discussed this directive with the chief planner, Laurie? she relayed to me that the city is having a difficult time getting anyone to comply. This topic was raised with the partners of the Shade at our periodic meetings. to view their reasons for not complying with this requirement and the reply was that it was not feasible and the city' was not enforcing this .And last but not least #15 the operators of the facility shall provide adequate management and supervisory techniques to prevent loitering outside the subject businesses .. Under the "required mitigation measures, an employee parking program shall be required for the METLOX commercial establishments to alleviate the parking demands within t.he downtown commercial district. potential mitigation options may include satellite parking programs and or providing tandem parking stalls designated for employees only. WHAT THE HELL HAPPENED 11771 I think it's time to enforce these ll already agreed-upon items. Of course the businesses are already in operation so I guess no one is in any hurry but had these been enforced prior to them operating ,our neighborhood residents would not have to spend their time on matters that should have been resolved prior to operating these businesses. I feel, along with other neighbors that if you. the city are going to spend the time to produce a resolution for these projects you will be expected to enforce them. PLEASE let me hear from a council member

EXHIBIT C

regarding these conditions and why the City does not act on these issues. i am less than pleased with the way the parking and the noise continues to impact the neighborhoods and am not convinced that these 2 -issues would be exempt from a disclosure when we decide to sell our property, but maybe worse yet, is the possibility that these conditions can not be cured and if property value would be effected. Thankyou for spending your valuable time reading this. I am confident you will act on these issues and we can get back to our lives as they were prior to this oversight.
STEVE WIBLE 1212 n. Ardmore

From: Richard Montgomery
To: jinx1212@earthlink.net
Date: 4/20/2008 11: 13 :49 PM
Subject: City Letter dated 4/16/2008

Response from Mayor Pro Tem Richard Montgomery stating that staff has addressed every complaint in Wible's email

Steve,

I received a copy of your letter addressed to me on 4/16/2008. You state that you are a former city of Manhattan Beach city employee [building inspector] and long time resident of MB.

I would agree that the issues surrounding Metlox where not well planned when it was proposed in 2002/2003.

I wish I could tell you what council was thinking back then regarding the CUP, but I was not elected to council until 2005. By then Metlox was almost complete!

As such, the staff [Laurie Jester] has addressed every complaint and issue that I am aware of regarding noise and construction [although construction at Metlox has been over for two years now except for the new parking area this year].

As for parking, we the city, just finished a parking study specifically targeting downtown and the neighborhoods adjacent to Metlox.

Council reviewed this detailed traffic study at a public study session over month ago. It then went to the PPIC commission for public discussion, as well as the Planning Commission for further public input and discussion.

It will then come to council for final public input and direction.

I have many ideas on how to restrict parking for residents adjacent to Metlox and will be more than happy to discuss them with you.

EXHIBIT C

As a former city employee and resident, you know that you and your neighbors have numerous opportunities to have your opinion heard.

PLEASE attend all meetings and give all of the commissions [and council] your input.

Sincerely,

Richard P. Montgomery
Mayor Pro Tern
City of Manhattan Beach

(Dated 28Apr08, Ed.)

LINDY-COE-JUELL
re: metlox site

**Wible sends emails to
Shade at staff's request**

LINDY: Laurie Jester wanted me to send these letters to you regarding this particular site. i am interested in resolving the noise and parking issues that still exist with this site. In addition to other activities which don't seem to be consistant with the C. U. P. AS you have noticed, I and many other residents are adjacent to this site, and are concerned citizens . thankyou for spending the time resading this and if you would like to talk, my cell is 310-666-7089

From: "Leith Wible" <jinx1212@earthlink.net>
Date: Sun, 06 Jul 2008 10:51:55 ~0700
To: <rpm.mb@verizon.net> Subject: no relief

**Major disturbance: Shade "out
of control", Sat Jul 05, 2008**

mr. montgomery; i have sent you e-mails in the past, concerning the METLOX development and the impact it has had on the adjoining neighborhoods, in particular the SHADE hotel/bar. the neighbors have complained of the noise, the increase of the employees parking throughout the neighborhoods. as of this date, no improvement! last night, saturday the 5th, the "bar" was again out-of -control with the noise approximately 20-30 people, in front of the bar yelling and screaming at 11 :15 pm. obviously waking many residents.! called the bar to ask what was going on. they quoted, it's out-of-control, but they were trying to neutralize the crowd. i also called the "pd" and that i was irate about the noise once again. as i got dressed and walked across the street to meet officers, i noticed the unruly crowd. some very drunk and others just loitering on city property. i asked the officer if they could arrest the drunks for drunk in public, but they refused. i spoke with one employee who met with me and explained that there was no control and he couldn't do anything. i met with MILO who voiced the same words. i asked the officer if they could enforce the noise ordinance, but they did not know how to. the 2nd time i called the pd, i told them the problem had not been taken care of and the noise continued while i stood there and watched the calamity. this is about 12pm.

**Two police calls, noise disturbances and
disorderly conduct to midnight, but no citations**

EXHIBIT C

once again the bar is not working under it's conditional use permit. the neighbors are disappointed in the way the city refuses to enforce these very few conditions! if we cannot get satisfaction through these conditions what are we to do? a class-action suit, more of our valuable time spent at council meetings? a formal complaint will be filed with the city on monday and a meeting with the city manager once again. i would like to see a review of ther C.U.P. in order to either modify their hour and to initiate an "enforceable" noise ordinance" so we...(remainder of email missing. Ed.)

From: rpm.mb@verizon.net
To: jinx1212@earthlink.net; Portia Cohen; Rod Uyeda; Rich Thompson; Geoff Dolan; rleaf@citymb-info
Date: 7/6/2008 11:59:45 AM
Subject: Re: no relief

Mayor pro tem Montgomery's responds that staff has worked with Shade to reduce noise

Thank you Steve for your comments.

I am disappointed to hear that Shade allowed this to happen as you state last night.

We, the council and staff have been working with Shade to reduce any "noise" related problems. It appears that our efforts failed last night.

I am also perplexed at your comment that you had to call our "pd" twice and the officer (did you happen to remember his or her name?) Told you "I refuse" when asked to arrest those patrons "reportedly in the street and drunk in public"!

I am forwarding your comments to our police chief Rod Uyeda to address your concerns with the' PD.

I have also copied the Community Development Director, Richard Thompson - who is on charge of all CUP related issues.

Finally, the City Manager was copied to coordinate a response from the city to the owners of Shade.

Sincerely, Richard

Sent via BlackBerry by AT&T

EXHIBIT C

**MBPD first response on record to
enforce Shade use permit requirements**

From: Derrick Abell
To: jinx 1212@earthlink.net
Cc: Geoff Dolan; Rod Uyeda; Randolph Leaf
Date: 7/7/2008 PM 4:17:14 PM
Subject:

Dear Mr. Wible,

I received your e-mail regarding the noise and inebriated subjects at the Shade Hotel on July 5, 2008.

In response to your concerns, Manhattan Beach Police and Community Development staff are currently working with the Shade Hotel management to ensure that they are in compliance with the Conditional Use Permit (CUP) guidelines. Officers have been directed to increase their patrols of the Shade Hotel in an effort to monitor the noise levels and enforce any CUP violations. It is our hope that the increased Police presence will have a positive impact in addressing your concerns about the noise levels.

In response to your concern about the subjects that you described as being drunk in public, I believe that it will be helpful to explain the criteria that our officers use when confronted with having to make a decision about arresting people for being drunk in public. The criteria for being drunk in public is defined by, law as any person who is found in a public place under the influence of an intoxicating liquor in a condition that he or she is unable to exercise care for his or her own safety or the safety of others. In response to your call at the Shade Hotel that night, the officer determined that the subjects had been drinking, but did not meet the criteria of being drunk in public. The officer determined that it would be best for these subjects to be allowed to catch a cab on Morningside Drive. Although the officers have the discretion to determine if a subject meets the criteria for being drunk in public, they are also given the latitude to solve the problem in the best possible manner that will ensure the safety of the subject and the public.

We will make every effort to reduce the noise concerns and any other violations coming from the Shade Hotel that require an enforcement presence. I want to thank you for taking the time to express your concerns. The Manhattan Beach Police Department is dedicated to responding to community concerns and maintaining a safe environment for its residents and visitors. If I can be of further assistance, please contact my office at (310) 802-5177

Sincerely,

Captain Derrick Abell
Field Operations Division

EXHIBIT C

From: Leith Wible [mailto:jinx1212@earthlink.net]
Sent: Thursday, July 24, 2008 7:40 PM
To: Derrick Abell

This page includes conversational email exchanges between Wible and MBPD regarding a meeting between the city and Shade

Subject: good reading

greetings! hi captain derrick. this is steve wible. j spoke with you in length concerning the SHADE hotel a few weeks ago. rumor was you were going to meet with the owners and other department heads to discuss ongoing concerns related with their operations. In addition, the easy reader has a good article concerning the night life in hermosa and what the city is currently enforcing, due to the out of control condition at a few of the "watering holes". maybe our city could incorporate some of these procedures with these businesses. but i am interested in what came out of your meeting. my name must have been brought up. my cel!: 1-310-666-7089---home 1-310-5456331. or-----e-mail. hope you doing well and hope to hear from you soon steve

Leith Wible
Steve Wible
jinx1212@earthlink.net

From: Derrick Abell
To: jinx1212@earthlink.net
Date: 7/25/2008 5:38:19 PM
Subject: RE: good reading

Hi Steve. How are you doing? Hope all is well. Laurie Jester, Lt Dye and I recently met with the managers of the Shade Hotel to discuss the complaints of noise. The managers agreed to make every effort to reduce the noise complaints by doing a better job of managing the events they host and complying with the CUP guidelines. They have also hired more security staff to monitor the exits to better control the flow of the guest. They are also adding more enclosures to reduce the noise levels. I believe the discussion was helpful and will allow for continued open dialogue with them to resolve this problem.

I will be back on Monday for a few hours. I will try to give you a call then to further discuss the meeting we had with the Shade Hotel managers.

Take care and have a great weekend.

Derrick

EXHIBIT C

From: Leith Wible [mailto:jinx1212@earthlink.net]
Sent: Friday, August 08, 2008 3:04 PM
To: Laurie B. Jester
Subject: the "shade" meeting

Wible requests from staff minutes of the meeting between the city and Shade and what results

LAURIE JESTER; GREETINGS FROM ARDMORE AVE. STEVE WIBLE. I AM WRITING TO SEE IF I CAN OBTAIN A COPY OF THE MINUTES, OR WHAT WAS DISCUSSED AT THE MEETING WITH THE SHADE PERSONNEL, THE POLICE DEPARTMENT. WE ARE CURIOUS TO SEE WHAT WAS COVERED AND WHAT IF ANY DISCIPLINARY ACTION WAS TAKEN. ALSO, HAS ANYTHING FURTHER BEEN DONE ABOUT THE METLOX EMPLOYEES PARKING IN OUR NEIGHBORHOODS? WE HAVE NOTICED AN INCREASE IN THE DOMESTIC HELP FROM THE SHADE PARKING HERE. THANKS FOR ANY INFO YOU CAN FORWARD. STEVE WIBLE

From: Laurie B. Jester
To: jinx1212@earthlink.net
Cc: Derrick Abell; John Dye; Bryan Klatt;
Date: 8/12/2008 9:28:38 AM
Subject: FW: the "shade" meeting- Metlox

Staff response regarding July 5th, 2008 disturbance and meeting minutes. Shade violated the MBFD maximum occupancy of 45 for the skydeck, at the time, by scheduling 60 party-goers. Later, in Dec 08, MBFD over doubled the skydeck occupancy to 92. Even with that, Shade would have violated maximum occupancy, with 104 party-goers.

Steve-
Derrick is on vacation until next week so I am responding to you.

We did not take minutes at the meeting with the Shade but basically this is a summary of the meeting. Derrick Abell, John Dye and I met with Mike Zislis and Milo Bacic and discussed the noise complaints on July 4th weekend and in general. The 4th was a 24th birthday party on the roof for 60 people and 104 showed up. Prior roof noise complaints were when the built in sound system on the roof broke and a last minute temporary system was used and pointed straight to the east.

Basically Mike said:

1. An additional glass screen will be added to the roof deck to close up the opening to the west. facing the residents
2. They will increase security on Holidays and events such as July 4th \ six-man. AVP.
3. They will not schedule their own special events such as private rooftop parties during large Holidays or city events that would create conflicts.
4. Event coordination staff will plan ahead, staff and coordinate better to anticipate potential issues.

The Police will step up patrols Friday and Saturday nights- closing time 10-12 midnight. A reminder was sent a few weeks ago by Police to taxis not to stop on Valley which has been a source of noise complaints.

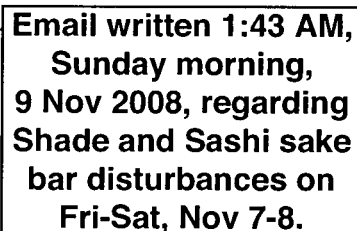
EXHIBIT C

The Police have met several times internally to discuss the Use Permit and Entertainment Permit requirements and enforcement. Please direct any questions regarding enforcement directly to Police.

Downtown employee parking in the residential areas is being addressed through the Downtown Parking study. Ana Stevenson is the contact person for questions on this issue.

Thanks Laurie

Leith Wible
To: rpm.l11b@verizon.net
Sent: Sunday, November 09, 2008 1:43 AM
Subject: the metlox nuisance



**Email written 1:43 AM,
Sunday morning,
9 Nov 2008, regarding
Shade and Sashi sake
bar disturbances on
Fri-Sat, Nov 7-8.**

mr. montgomery sir: greetings from the ARDMORE neighborhood. it has been a while since i sent you correspondence regarding the shade. and now we have TWO businesses of concern: the new sushi bar in the metlox site. i understand that both businesses create a significant amount of revenue! for the city and the shade is frequented by city staff, but i don't believe that should sway the city in enforcing either the noise ordinance or the parking requirements for this site. friday night my family ,(and I'm sure 'other residents) was woken by the loud bass music from the sushi bar and then on saturday night by the shade hotel and the PARTY they were having outside on the south side. for nearly 2-hours we were subjected to screaming and yelling from intoxicated patrons. at approximately 11 pm i visited the shade to confirm the noise source and asked MILO (co-owner) why it was so loud ,responding, we're having a party and that he acknowledged the noise level and that they would be closing at 11:30pm. i called the P. D. and officer BEN showed up and asked what he could do. i told him the noise level had woken our family and that the level of noise needed to be reduced. once again i was asked if i had a solution to the problem and had i thought about installing insulation in my home to buffer the noise. this on-going nuisance of noise and parking from this site needs to be addressed seriously and the city planners use the rules and ordinances to enforce those problems. why won't the city regulate these businesses so the neighbors do not have to GET OUT OF BED AT 1 '1 PM . the officer stated that his hands are TIED and that politics are obviously involved. i guess what it comes down to is this city has created a nuisance in close proximity of residential, and the city has dropped the matter in the residents laps to deal with. i am rather disappointed in the cities attitude towards the enforcement or lack thereof concerning these businesses. i think the on-going complaints with the shade has warranted a more strict look at their operation and some serious monitoring of both the noise and the employee parking requirements for the entire site. these occurrences have led me to believe that if our property is ever sold, the noise and the parking problems will have to be disclosed to buyers. this is not going to be a positive thing for

EXHIBIT C

the seller. i am not a lawyer, but i believe this disclosure could jeopardize a sale. we need the rules; that are existing to be enforced and carried out. i would appreciate a response and look forward to resolving these obstacles before the neighborhoods look for plan "B". steve wible

Leith Wible
Steve Wible
Jinx1212@earthlink.net

From: Richard Montgomery [mailto:
Sent: Sun 11/9/2008 10:49 AM
To: jinx1212@earthlink.net
Cc: Geoff Dolan; Rod Uyeda; Richard Thompson; Laurie B. Jester; Portia P. Cohen
Subject: Re: the metlox nuisance

Mayor Montgomery's response, believing that the staff-Shade meeting had solved the noise problem, because the city had not received any complaints since July. Actually the MBPD had received ten calls of disturbances . See next note.

Thanks Steve for your comments.

First, since you state that Ofc. BEN did not resolve your problem and instead cried "politics" - I want you to know that you can always ask to speak with the Watch Commander at the Police Department 24/7 and he/she would have taken appropriate action.

Also, have you ever spoken with our police chief, Rod Uyeda about this problem? I highly recommend it. He needs to hear your concerns first hand, not through police reports.

Second, yes, our staff has addressed the problem with the owners of Shade (this is the first time I have heard of a complaint from the new Sushi Restaurant). In fact, we have not heard of any complaints from anyone over the previous four months (your last complaint). Obviously, that means that the owners/operators met with city staff and it was/is working.

Staff apparently informed Mayor Montgomery that the city had received no complaints during 7 Jul - 8 Nov, 2008. Actually the MBPD had received ten calls on Shade disturbances

Third, I don't believe anyone on councilor staff cares about any "revenue" from any restaurant or bar not operating in compliance no matter who it is.

And if anyone ever states that to me in public or at a council meeting I will tell them that they are "full of hot air" or something else along that line.

Fourth, you obviously did not attend or were not aware of the revised (as of the past two weeks) Downtown MB Parking Plan which will restrict "metlox employees" parking in your neighborhood. It shows that this council does listen to the residents and will cure a problem that has been going on for many years (,even pre-metlox). The plan is available on the city website or you can contact Community Development for a copy.

EXHIBIT C

Fifth, I am copying the City Manager (Geoff Dolan), the Police Chief (Rod Uyeda) and the Community Development Director (Richard Thompson), Senior Planner in charge of Metlox (Laurie Jester) and the Mayor Pro Tem (Portia Cohen) - so that they are aware of your comments.

Sincerely,

Richard P. Montgomery
Mayor
City of Manhattan Beach
Email: Rmontgomery@Gitymb.info

Leith Wible
To: Richard Montgomery
Sent: Sunday, November 09, 2008 11:34 AM
Subject: Re: the metlox nuisance

Wible replies, he is not the only one whom Shade disturbs, although he may be the only one who verifies that Shade causes the disturbances and who calls the police

good morning? thankyou for your response to my e-mail. Earlier this am. Needless to say. being woken up at 11pm and having to investigate the noise source is not my favorite thing to do, in addition to having no apparent means of quieting the noise down. i got no relief from meeting with the p.d, even though i was told that the watch commander would be notified. keep in mind, that the only time the p.d. is notified is when the noise level is extreme , ie can't hear our t.v. in our own front room, or noise wakes us. also, i'm not the only resident affected by this, i may be the only one that calls, or is interested enough to investigate the source prior to notifying the department. hence finding the sushi bar and the constant thumping of bass music(?) with their doors open. As for the council meeting on parking, i had just donated flesh to kaiser hospital, and was recuperating from 28- stitches in my forehead. i did have my life-long friend martha andreani relate the somewhat good news to me but haven't seen any details as of yet as i may have stated in the past, i'm use to remedying situations like these at metlox, being a former employee, but now i have to depend on others and sometimes it is frustrating to be "on the other side of the counter" I in addition to the fact attitudes have changed in enforcement thinking. I realize it is a difficult job when so many things are to be considered and some consequences. i do appreciate your concerns and apologize for the early morning wake-up call. respectfully steve wible

Leith Wible
Steve Wible
jinx1212@earthlink.net

EXHIBIT C

From: Richard Montgomery
To: jinx1212@earthlink.net
Date: 11/9/2008 2:40:37 PM
Subject: Re: the metlox nuisance

**Mayor Montgomery informs Wible
he will hear from staff and/or MBPD**

Thanks Steve,

never a problem emailing or calling me (Martha is also a friend of mine and knows this already!).

I would ask you to meet with Chief Uyeda as i believe he takes "enforcement" seriously.

As you stated, the new Sushi restaurant, if found to be a "noise maker" will have to follow the same rules as everyone else, No exceptions.

Also, i believe that enforcement should apply equally to everyone, no exceptions. If i was awakened by music at 11 pm on a Sunday night, i would be unhappy as well!
Please let me know once you have heard from Laurie Jester and or the Police Chief.
Sincerely, Richard

**MBPD 2nd response to enforce Shade hotel use permit
requirements, four months after 1st response from Capt Abell.**

From: Rod Uyeda
To: Richard Montgomery; jinx1212@earthlink.net
Cc: Geoff Dolan; RichC3rd Thompson; Laurie B.Jester ; Portia P. CohEm ; DerrickAbel1
Sent: Monday, November 10, 2008 9:59 AM
Subject: RE: the metlox nuisance

Mr. and Mrs. Wible

I apologize but I am out of town but have looked into this incident. I think we could have handled it better. Most of our Staff is aware of the sensitive issues around the Metlox Plaza and have been instructed to hold the businesses to the letter of the law in response to violations of their CUP. It appears this may not have happened the other evening. We recently had major personnel movement at the PD and the new supervision of the Watch as well as the responding officer were in other assignments when the last series of complaints came out regarding the Shade Hotel. Since that time, both Police and Planning have met extensively with Shade Hotel management to explain that they will be held to the letter of the law regarding their CUP when a resident complains. In the event the PO does not feel they violated their CUP. a supervisor or Watch Commander should be able to explain to any complaining party the reason why. It is important to note that the businesses cannot be held responsible for what patrons do once outside of their establishment.

Since your reporting of this incident, the Patrol Division Captain, as well as evening and graveyard supervision and Watch Commanders have come up with an action plan so

EXHIBIT C

that a specific protocol is followed regarding complains of Metlox businesses and that they will be held accountable for their CUPs. Nobody will be given special treatment. They know the rules and must follow them.

Captain Abell or Lt. Dye will contact you either today or very soon thereafter. Thank you for letting us know of your concerns. It helps us continue to improve the levels of service we provide. Again, we could have done a better job the other evening.

Yours in service,

Rod Uyeda
Chief of Police

MBPD criteria established Nov 2008, to cite Shade if terrace occupied after 11 PM, seven days a week. Never enforced as of Oct 2009,

From: John Dye
To: jinxl212@earthlink.net
Cc: Rod Uyeda; Derrick Abell; Randolph Leaf; Christian Eichenlaub; Steve Tobias; Robert Cochran; Paul Ford; Christopher Vargas
Date: 11/14/2008 6:11:40 PM
Subject: Shade /Sashi Noise

Steve Wible:

Just to let you know that Sgt. Eichenlaub and I went over to both Shade and Sashi this evening (11-14-08) and talked with their managers and advised them of the noise complaints from the neighbors. I told them of their CUP time restrictions and that they would have to have their patios closed by the time in their CUP's. They all agreed they want to be good neighbors and mitigate the noise within their ability to do so, Our officers have been instructed to write a violation report or issue citations for specific violations of the CUP for which they see.

Just wanted to keep you informed.

Thanks.
Lt. John Dye

BOTTOM LINE

Despite repetitive assurances from staff, a councilmember, police, and Shade, the disturbances routinely continue unabated to this day.

EXHIBIT D

JEFF DOOLEY RE DISTURBANCES

23 JUL 09: NIGHT AFTER PC JUL 22 HEARING ON SHADE

16-17 OCT 09: WEEK BEFORE PC OCT 28 SHADE HEARING

From: Jeff Dooley [mailto:jdooley64@hotmail.com]

Sent: Friday, July 24, 2009 12:06 AM

To: dmcphersonla@gmail.com; brentjtaylor@gmail.com

Cc: xterescot@yahoo.com; dmteeth@yahoo.com; akikut@msn.com;

jinx1212@earthlink.net; jobmd33@me.com

Subject: Shade Hotel 7-23-09

Many people on the patio (terrace) and area around the patio at midnight, in violation of terrace 11 P.M. closing time.

Okay...as you can see...it is now 11:57 on a Thursday night...[23 Jul 2009]

The Zinc bar is pretty full and there are many people in the bar, on the patio and in the area around the patio...voices are loud and clear from my house...

I am amazed (well, honestly...not really) that this is happening the day after the meeting [PC hearing, 22 Jul 2009]...there is obviously very little interest on their side in compliance...

I walked over..."to make sure it was shade and only shade...it was...I then spoke to "Joe" and Milo...and expressed my disbelief that this was happening today...stating..."you guys want later hours...this is not the way to make that happen"...

I have said it before...as I got to experience "the promises" at mucho...our "now" problem needs to be remedied first...before new problems are added...AND everything will be needed to be defined and clearly stated to ensure their compliance...

sadly in disbelief, jeff

Dooley lived near Mr. Zisli's Muchos, but moved to 1140 N Ardmore, across from Shade, to get away from the Muchos noise.

From: Jeff Dooley

To: Don McPherson

Subject: RE: Shade Violation Paper

Date: Sunday, October 18, 2009 11:33:20 PM

Dooley "feels" his house shudder under onslaught of the high-intensity, bass sound-pressure waves.

Hey Don...I tried to be patient on both Friday and Saturday nights...but the music was loud only direction...it cut out at 11 on Friday but Saturday it was significantly louder...and I could once again "feel" it in my place (even though mike "promised" he "eliminated all the bass" in their sound system...so I called the police at 10:15...do I need to call the police for a confirmation number? Thank

Shade heeds MBPD threat of citation if Zinc/Lounge/Terrace hours violated. After four years of violations, about time! See next page for long-overdue pledge to enforce 11 PM closing.

EXHIBIT D

MBPD FINALLY COMMITS TO A ZINC CLOSING HOUR

From: John Dye <jdye@citymb.info>
Date: October 9, 2009 8:22:21 PM PDT
To: Nate Hubbard <natehubz@mac.com>
Cc: Rod Uyeda <ruyeda@citymb.info>, Derrick Abell <dabell@citymb.info>, Tim Hageman thageman@citymb.info

Subject: RE: Metlox courtyard at 11pm

Nate:

I have received updated enforcement instructions regarding the Shade's hours. The Chief and Richard Thompson met today and it was decided that the outside patio is still to close at 11pm. The interior lobby/bar area presents some other issues since it's a common area for both the bar, and hotel patrons operated on a 24 hrs. basis. The lobby bar is still to close at 11pm but no enforcement citations are to be issued due to people being in the lobby finishing their beverages until after 11:30pm.

The roofdeck and courtyard areas have not changed.

I am sending this to you so you know what my actions will be based on the time frames for the different locations.

Thanks.

Lt. John Dye

EXHIBIT E

MBPD LOG SHOWS 97 SHADE DISTURBANCE CALLS November 2005 – September 2009, Approximately Two a Month

The following log lists 97 calls for disturbances, with Codes 415 (disturbance), 415M (music), 415P (party) and 415J (juvenile)

The acronyms in the Disposition column have the following meanings:

64	ADAST:	Advised BKG (booking), not necessarily related to call
2	BKG	Booking
1	CMC:	Cited Municipal Code
7	GOAUTL:	Gone on Arrival, Unable to Locate
1	DUP:	Duplication
2	NRD:	No Report Desired
2	OTHER:	Anything not in list
7	REPORT:	Report
1	SECURE:	All Secure
8	UNFOUN:	Call Unfounded
<u>2</u>		No entry
97		

The numbers preceding the acronyms show the distribution of Call-Types for the 97 calls.

MBPD would have to provide further explanations, such as, whether or not the ADAST call-types, 'advised booking', ever resulted in bookings.

EXHIBIT E

DISTURBANCE, CODE 415

Call No	Report No	Received Date	Priority	Call Type	Unit ID	Disposition	Jurisdiction	Location
051820230		07/01/2005	2	415	2L3D	ADAST	MB	1221 N VALLEY DR
053160160		11/12/2005	2	415	2L2D	ADAST	MB	1221 N VALLEY DR
053170365		11/13/2005	2	415	2L2D	ADAST	MB	1221 N VALLEY DR
053510016		12/17/2005	2	415	2K6	OTHER	MB	1221 N VALLEY DR
060340077		02/03/2006	2	415	2L3M	ADAST	MB	1221 N VALLEY DR
060700485		03/11/2006	2	415			MB	1221 N VALLEY DR
061080561		04/18/2006	2	415	2L2M	SECURE	MB	1221 N VALLEY DR
061100488		04/20/2006	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
061290583		05/09/2006	2	415	2L2M	ADAST	MB	1221 N VALLEY DR
061480740	06-1942	05/28/2006	2	415	2L1M	CMC	MB	1221 N VALLEY DR
061490546		05/29/2006	2	415	2L4S	ADAST	MB	1221 N VALLEY DR
061730529		06/22/2006	2	415	2L1S	ADAST	MB	1221 N VALLEY DR
061830052		07/02/2006	2	415	2L3M	ADAST	MB	1221 N VALLEY DR
061960624		07/15/2006	2	415	2L2S	ADAST	MB	1221 N VALLEY DR
061960707	06-2752	07/15/2006	2	415	2A4S	BKG	MB	1221 N VALLEY DR
062090710		07/28/2006	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
062570650		09/14/2006	2	415	2L3M	ADAST	MB	1221 N VALLEY DR
063150593		11/11/2006	2	415	2L5S	NRD	MB	1221 N VALLEY DR
063500575		12/16/2006	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
070270318		01/27/2007	2	415	2L3D	NRD	MB	1221 N VALLEY DR
070460341		02/15/2007	2	415	2L2D	ADAST	MB	1221 N VALLEY DR
070620498		03/03/2007	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
070630500		03/04/2007	2	415	2L1S	ADAST	MB	1221 N VALLEY DR
070630531		03/04/2007	2	415	2L3S	ADAST	MB	1221 N VALLEY DR

DISTURBANCE, CODE 415

070830566		03/24/2007	2	415	2A5S	ADAST	MB	1221 N VALLEY DR
071390736		05/19/2007	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
071390793		05/19/2007	2	415	2L4M	ADAST	MB	1221 N VALLEY DR
071390797		05/19/2007	2	415		DUP	MB	1221 N VALLEY DR
071400693		05/20/2007	2	415	2L4S	ADAST	MB	1221 N VALLEY DR
071590732		06/08/2007	2	415	2L4S	ADAST	MB	1221 N VALLEY DR
071940752		07/13/2007	2	415	2K8	ADAST	MB	1221 N VALLEY DR
072090726		07/28/2007	2	415	2L7M	ADAST	MB	1221 N VALLEY DR
072150743		08/03/2007	2	415	2L4M	UNFOUN	MB	1221 N VALLEY DR
072430611		08/31/2007	2	415	2L2S	GOAUTL	MB	1221 N VALLEY DR
072810648		10/08/2007	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
073180540		11/14/2007	2	415	2X5	GOAUTL	MB	1221 N VALLEY DR
080040712	08-53	01/04/2008	2	415	2L3S	REPT	MB	1221 N VALLEY DR
080200700		01/20/2008	2	415	2B6	ADAST	MB	1221 N VALLEY DR
080680331		03/08/2008	2	415	2P18	ADAST	MB	1221 N VALLEY DR
080880852		03/28/2008	2	415	2L1M	ADAST	MB	1221 N VALLEY DR
081110570		04/20/2008	2	415	2K8	UNFOUN	MB	1221 N VALLEY DR
081870825		07/05/2008	2	415	2L4S	ADAST	MB	1221 N VALLEY DR
081870847		07/05/2008	2	415	2L4S	GOAUTL	MB	1221 N VALLEY DR
081930857		07/11/2008	2	415	2L2M	ADAST	MB	1221 N VALLEY DR
082210769		08/08/2008	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
082500040		09/06/2008	2	415	2L1M	UNFOUN	MB	1221 N VALLEY DR
082710546		09/27/2008	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
082710601		09/27/2008	2	415	2L3S	ADAST	MB	1221 N VALLEY DR
082780602		10/04/2008	2	415	2L3S	GOAUTL	MB	1221 N VALLEY DR
083240048	08-4796	11/19/2008	2	415	2L1M	BKG	MB	1221 N VALLEY

DISTURBANCE, CODE 415

								DR
083440554		12/09/2008	2	415	2L3S	GOAUTL	MB	1221 N VALLEY DR
083470335		12/12/2008	2	415	2L3D	ADAST	MB	1221 N VALLEY DR
090090709		01/09/2009	2	415	2L4S	ADAST	MB	1221 N VALLEY DR
090670103		03/08/2009	2	415	2L4M	ADAST	MB	1221 N VALLEY DR
091750042		06/24/2009	2	415	2L3M	ADAST	MB	1221 N VALLEY DR
091910771		07/10/2009	2	415			MB	1221 N VALLEY DR
091990853	09-2897	07/18/2009	2	415	2L2S	REPT	MB	1221 N VALLEY DR
092400094		08/28/2009	2	415	2L3M	ADAST	MB	1221 N VALLEY DR
092480873		09/05/2009	2	415	2L3S	UNFOUN	MB	1221 N VALLEY DR
092530934		09/10/2009	2	415	2L3S	GOAUTL	MB	1221 N VALLEY DR
092650078		09/22/2009	2	415	2L2M	GOAUTL	MB	1221 N VALLEY DR

End of document

MUSIC, CODE 415M

Call No	Report No	Received Date	Priority	Call Type	Unit ID	Disposition	Jurisdiction	Location
053270552		11/23/2005	2	415M	2L3M	ADAST	MB	1221 N VALLEY DR
053350539		12/01/2005	2	415M	2L1S	ADAST	MB	1221 N VALLEY DR
053500568		12/16/2005	2	415M	2L4S	ADAST	MB	1221 N VALLEY DR
053570578		12/23/2005	2	415M	2L4S	ADAST	MB	1221 N VALLEY DR
060900562		03/31/2006	2	415M	2L4S	ADAST	MB	1221 N VALLEY DR
061120425		04/22/2006	2	415M	2L3S	ADAST	MB	1221 N VALLEY DR
061120467		04/22/2006	2	415M	2L2S	ADAST	MB	1221 N VALLEY DR
061120515		04/22/2006	2	415M	2L1S	ADAST	MB	1221 N VALLEY DR
062170682		08/05/2006	2	415M	2L3S	UNFOUN	MB	1221 N VALLEY DR
063490587		12/15/2006	2	415M	2S5	ADAST	MB	1221 N VALLEY DR
071720048		06/21/2007	2	415M	2L5M	ADAST	MB	1221 N VALLEY DR
071750576		06/24/2007	2	415M	2L2S	ADAST	MB	1221 N VALLEY DR
071950581		07/14/2007	2	415M	2T9	ADAST	MB	1221 N VALLEY DR
072290496		08/17/2007	2	415M	2S5	ADAST	MB	1221 N VALLEY DR
072580746		09/15/2007	2	415M	2L4S	ADAST	MB	1221 N VALLEY DR
081650640		06/13/2008	2	415M	2L4S	ADAST	MB	1221 N VALLEY DR
082720490		09/28/2008	2	415M	2L3S	ADAST	MB	1221 N VALLEY DR
082980712		10/24/2008	2	415M	2L3S	ADAST	MB	1221 N VALLEY DR
083130710	08-4766	11/08/2008	2	415M	2L4S	ADAST	MB	1221 N VALLEY DR
091280844		05/08/2009	2	415M	2L3M	UNFOUN	MB	1221 N VALLEY DR
091290636	09-1785	05/09/2009	2	415M	2L3S	REPT	MB	1221 N VALLEY DR
091290770		05/09/2009	2	415M	2L3S	ADAST	MB	1221 N VALLEY DR
091350847		05/15/2009	2	415M	2L1M	ADAST	MB	1221 N VALLEY DR
091770056		06/26/2009	2	415M	2L3M	ADAST	MB	1221 N VALLEY DR

MUSIC, CODE 415M

092200803	09-3302	08/08/2009	2	415M	2L3S	REPT	MB	1221 N VALLEY DR
092550666	09-3862	09/12/2009	2	415M	2L2S	REPT	MB	1221 N VALLEY DR
092700633	09-4072	09/27/2009	2	415M	2L3S	REPT	MB	1221 N VALLEY DR

End of document

EXHIBIT E**PARTY, CODE 415P**Records **1** through **6** of **6**

Call No	Report No	Received Date	Priority	Call Type	Unit ID	Disposition	Jurisdiction	Location
061760439		06/25/2006	2	415P	2B8	UNFOUN	MB	1221 N VALLEY DR
070910086		04/01/2007	2	415P	2L6M	ADAST	MB	1221 N VALLEY DR
083410740	08-5039	12/06/2008	2	415P	2L3S	OTHER	MB	1221 N VALLEY DR
092260782	09-3398	08/14/2009	2	415P	2L3M	REPT	MB	1221 N VALLEY DR
092610898		09/18/2009	2	415P	2L3M	ADAST	MB	1221 N VALLEY DR
092620776		09/19/2009	2	415P	2L3S	UNFOUN	MB	1221 N VALLEY DR

End of document

Records 1 through 3 of 3

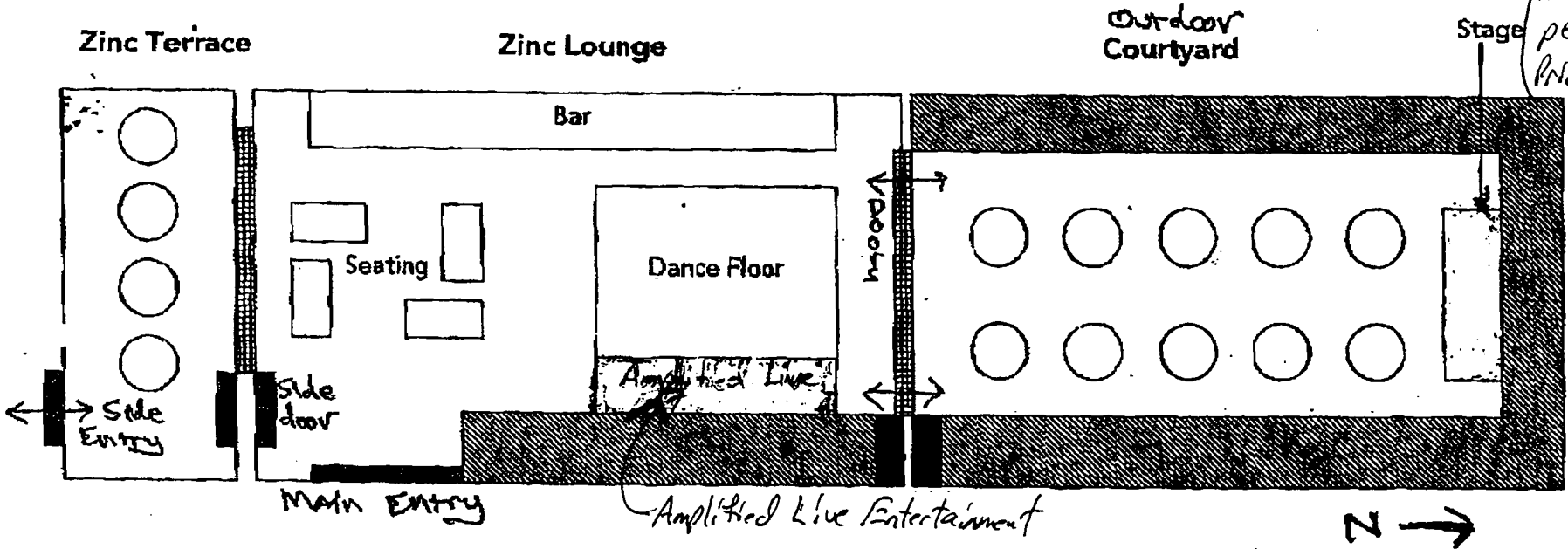
JUVENILE, CODE 415J

Call No	Report No	Received Date	Priority	Call Type	Unit ID	Disposition	Jurisdiction	Location
060320309		02/01/2006	3	415J	2L2D	ADAST	MB	1221 N VALLEY DR
061460680		05/26/2006	3	415J	2L4S	ADAST	MB	1221 N VALLEY DR
070330346		02/02/2007	3	415J	2M72	ADAST	MB	1221 N VALLEY DR

End of document

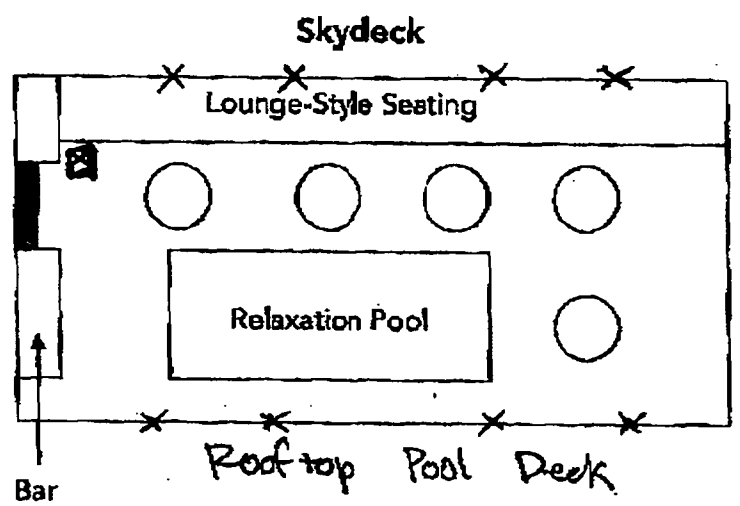
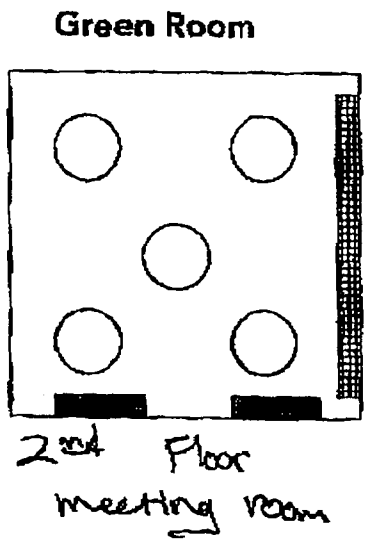
Event Space Layout

(Max. 6 times per year, Prior approval)



LAYOUT LACKS REQUIRED STC-50 WALL BETWEEN ZINC AND LOBBY

EXHIBIT F



LEGEND

- = 12 foot rounds
- = Doorways
- ▨ = Walkways
- ▩ = Sliding Glass Doors

This is not to scale

RECEIVED
MAY 09 2006
By _____

x = SMALL SPEAKERS (LIGHT DAYTIME MUSIC)
 ⊠ = ENTERTAINMENT SPEAKER (DOWN GROUND FACING WEST)

09/04/2008 10:10 310-802-5501

EXHIBIT G

MCPHERSON DECLARATION OF SHADE NOISE AND CLOSING TIME VIOLATION OF TERRACE

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I, Donald McPherson, declare:

1. I am 75 years old and a resident of the City of Manhattan Beach. I have personal knowledge of the matters expressed in this declaration, and I could testify competently to them, if called to do so.

2. On the evening of 31 July 2009, a Friday, I observed the entrances to the Shade Hotel and Zinc terrace from 11:00 P.M. to 11:50 P.M.. I am certain of the times, because I checked my watch at each of the observations related below.

3. Starting 11:00 P.M., through the opening in the curtains, from a distance of approximately 20 to 30 feet, I observed many people on the terrace, standing shoulder to shoulder, drinking beverages. That remained the case when I departed near midnight.

4. I observed patrons entering the south entrance of the terrace after 11:15 P.M.

5. I estimated the noise from the terrace, at a distance of 20-30 feet, as oppressive. The noise level from the front entrance of the hotel, with the door closed, was a little less than from the terrace south side. I did not observe any retractable doors separating the Zinc bar area from the reception, as required by PC Resolution 05-08, Finding O.

6. I did not see any patrons leaving the terrace entrance or the front entrance, until after 11:30 P.M., and then only a few.

7. Near midnight, the noise levels from the terrace and east side of the lobby sounded similar to those at 11:00 P.M.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 17 October 2009, at the City of Manhattan Beach, California.

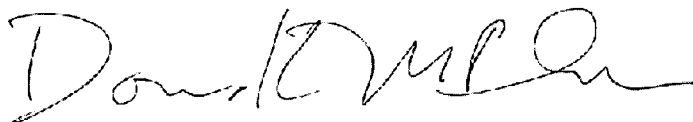


EXHIBIT H

SHADE WEBPAGE PROMOTING 11 PM SKYDECK PARTIES

HOME THE SKYNNY AMENITIES SLEEP ZINC LOUNGE PICS MEET CELEBRATE WEDDINGS SPONSORS PRESS CONTACT



Holiday
Specials
and
Packages

SHADE
SUNSETS

3 minute
video hotel
tour

for live help call
866.SHADE77

[SPACE DESCRIPTIONS](#) | [CAPACITY CHART](#) | [FLOOR PLANS](#) | [THE COURTYARD](#) | [THE GREEN ROOM](#) | [THE SKYDECK](#)
[THE ZINC LOUNGE](#) | [THE ZINC TERRACE](#) | [MENU OPTIONS](#) | [TESTIMONIALS](#) | [REQUEST PROPOSAL](#)

up on the roof.

Ascend the stairs and discover 365 days of sunlight at our open air poolside retreat. Our intimate rooftop deck provides guests with a place to soak in the sun, entertain friends, and to appreciate the ocean air and our very own breathtaking Manhattan Beach sunsets. For an unforgettable evening, host a private party. We will serve you and your guests a memorable meal under the stars.

How Big?

42' x 32'
950 square feet

How many?

The Sky Deck can hold up to 80 people for cocktails.
50 for a more formal sit down event.

How much?

An event on the Skydeck requires the following minimum spend:

Sunday through Wednesday Evening (7pm-10pm)	\$2,500
Thursday (7pm-11pm)	\$3,500
Friday - Saturday Evening (7pm-11pm)	\$5,000

Shade advertises special events on skydeck to 11 PM Thu-Sat, in violation of 10 PM closing. Residents allege that parties go until midnight, or later.

We do not accommodate private parties during the daytime on the Skydeck. Prices and minimum spend requirements are exclusive of tax and 20% service charge.

want more? be the first to know about special events and offers...

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[Privacy Policy](#) | [Site Security](#) | [Site Map](#) | [Press](#) | Design by Bungalow

reservations: 866.SHADE77 (toll free)

EXHIBIT I

S HUBBARD OBSERVED SKYDECK NOISE AFTER 10 P.M. REQUIRED CLOSE

From: Stephanie Hubbard [mailto:steffhubz@verizon.net]
Sent: Saturday, September 05, 2009 8:32 PM
To: 'Don McPherson'; 'Nate Hubbard'
Cc: 'Aksi Kikut'; 'Steve Wibel'
Subject: RE: Two Zislis Items re Wed Meeting

Hi All,

Friday, 4 September 2009

I called Shade last night at 10:35 because we could clearly hear Skydeck noise and Nate could see some sort of television screen up there. I asked what was going on and got no answer. I asked what time they were closing the deck and they said in 25 minutes, but that they would go up and quiet everyone down. I fell asleep before the noise stopped so I don't know exactly when it finally calmed down. My neighbor, Ralph Mueller said there was noise after 11:00 and there were taxis picking up out front (Valley entrance) for quite a while after 11:00 and that there was a lot of noise generated from that. Taxis are supposed to be picking up from the other side.

Stephanie

Neighbor alleged
noise continued
until after 11 P.M.

EXHIBIT J

N HUBBARD OBSERVED SKYDECK PARTIES TO 11 P.M. Friday-Saturday, 4-5 September 2009

From: Nate Hubbard
To: Don McPherson
Cc: Jeff Dooley; Stephanie Hubbard; Steve Wibel; Aksi Kikut
Subject: Re: Zinc Bar Operations Past Closing
Date: Sunday, September 06, 2009 2:41:47 PM

All good information Don.

Do you remember at the meeting when I asked about the need for monitoring the SkyDeck and Zizlus stated that only guests were allow there. I asked if this was a change in policy and he side-stepped the answer.

There was significant noise both Fri & SAT nights till 11pm There is also a large screen TV up there which stayed on until midnite (although I could hear no noise from it.

How are WE the know who is a "patron" and who is a "guest"? There were a lot of guests this weekend up there this weekend.

Nate



NOISE TO 11 P.M.,
TV OBSERVED UNTIL MIDNIGHT

EXHIBIT K

STAFF EMAIL: VIOLATION OF SKYDECK OCCUPANCY LIMIT

Staff email response to resident Steve Wible, regarding a disturbance on 5 July 2008. Shade violated the MBFD maximum occupancy of 45 for the skydeck, at the time, by scheduling 60 party-goers. Later, in Dec 08, MBFD over doubled the skydeck occupancy to 92. Even with that, Shade would have violated current occupancy, with the 104 revelers who joined the birthday celebration.

This is an example of evidence for only one instance of a violation. Because of the frequent widespread violations by Shade, however, one incident implies they routinely violated occupancy limits set by entertainment permits.

From: Laurie B. Jester
To: jinx1212@earthlink.net
Cc: Derrick Abell; John Dye; Bryan Klatt; Andrew Harrod; Ana Stevenson
Date: 8/12/2008 9:28:38 AM
Subject: FW: the "shade' meeting- Metlox

Steve-

Derrick is on vacation until next week so I am responding to you.

We did not take minutes at the meeting with the Shade but basically this is a summary of the meeting. Derrick Abell, John Dye and I met with Mike Zislis and Milo Bacic and discussed the noise complaints on July 4th weekend and in general. **The 4th was a 24th birthday party on the roof for 60 people and 104 showed up.** (Emphasis added.) Prior roof noise complaints were when the built in sound system on the roof broke and a last minute temporary system was used and pointed straight to the east.

Basically Mike said:

1. An additional glass screen will be added to the roof deck to close up the opening to the west, facing the residents
2. They will increase security on Holidays and events such as July 4th six-man. AVP.
3. They will not schedule their own special events such as private rooftop parties during large Holidays or city events that would create conflicts.
4. Event coordination staff will plan ahead, staff and coordinate better to anticipate potential issues.

The Police will step up patrols Friday and Saturday nights- closing time 10-12 midnight. A reminder was sent a few weeks ago by Police to taxis not to stop on Valley which has been a source of noise complaints.

The Police have met several times internally to discuss the Use Permit and Entertainment Permit requirements and enforcement. Please direct any questions regarding enforcement directly to Police.

Downtown employee parking in the residential areas is being addressed through the Downtown Parking study. Ana Stevenson is the contact person for questions on this issue.

Thanks Laurie

EXHIBIT L

MBFD OCCUPANCIES OCT 08: ZINC 77, SKYDECK 45 Page 1, Conditions of Approval, 3 Oct 2008 Entertainment Permit

GROUP ENTERTAINMENT PERMIT: Class I. Effective to March I, 2009.
Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Police Department:

1. The Police Department shall be notified of entertainment scheduling in writing at least 7 days prior to any event. Notification shall include operating details pertaining to type of entertainment, including size and location of performance or dance area, size of band and number of performers, hours, type of instruments, type of music, type and location of amplification, speakers and other equipment, volume of amplification, type of event, number of guests, location of event, food service, supervision, hours of event including setup and breakdown, and type of transportation for guests. Contact Traffic Sgt. Office at 310-802-5156.
2. The applicant shall comply with all of the requirements of Chapter 5.48 Noise Regulations, of the City of Manhattan Beach Municipal Code. (See Sections 5.48.140 and 5.48.160 for specific noise standard regulations)

Fire Department:

Required occupancy loads shall not be exceeded and exits shall remain unobstructed. The exact numbers are required to be posted on the site:

Roof Deck - 45
Lobby Bar (Zinc Lounge)- 77
Patio to south of Zinc Lounge- **47**
Courtyard Area - 200

MBFD first established these occupancies for the alcohol venues in the Oct 08 entertainment permit, then over doubled them, two months later, in a revised permit

Community Development Department:

1. Hours for special events with entertainment or amplified sound shall be limited to 10 AM to 10:00 PM daily.
2. Entertainment or amplified sound shall be in conformance with the attached approved floor plan including: the designated amplified live entertainment/performer location adjacent to the east wall of the Zinc Lounge, and a dance floor area approximately 15' by 20' adjacent to the performer area. Entertainment or amplified sound is prohibited on the Zinc Terrace. The outdoor courtyard to the north of the Zinc Lounge and the Skydeck may only be used for live entertainment, amplified sound or events with a 14 day prior notice and approval of the City. A maximum of 6 events per year may take place in this outdoor courtyard and the Skydeck.
3. A maximum of 4 performers shall be permitted at any time. Entertainment that would result in dancing which exceeds the capacity of the 15' by 20' dance floor shall be prohibited. Entertainment and dancing shall conform to the attached floor plan. Amplified sound shall be allowed a maximum of 4 times per month. Entertainment at other times shall be limited to acoustic performances only and limited to a maximum of 2

EXHIBIT M

MBFD OVER DOUBLED ZINC & SKYDECK OCCUPANCY Page 1, Conditions of Approval, 19 Dec 2008 Entertainment Permit

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.
Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Police Department:

1. The Police Department shall be notified of entertainment scheduling in writing at least 7 days prior to any event. Notification shall include operating details pertaining to type of entertainment, including size and location of performance or dance area, size of band and number of performers, hours, type of instruments, type of music, type and location of amplification, speakers and other equipment, volume of amplification, type of event, number of guests, location of event, food service, supervision, hours of event including setup and breakdown, and type of transportation for guests. Contact Traffic Sgt. Office at 310-802-5156.
2. The applicant shall comply with all of the requirements of Chapter 5.48 Noise Regulations, of the City of Manhattan Beach Municipal Code. (See Sections 5.48.140 and 5.48.160 for specific noise standard regulations)

Fire Department:

Required occupancy loads shall not be exceeded and exits shall remain unobstructed. The exact numbers are required to be posted on the site:

Roof Deck - 92
Lobby Bar (Zinc Lounge) - 159
Patio to south of Zinc Lounge- 47
Courtyard Area - 151
Conference Room - 44

From the 3 Oct 2008 permit, two months earlier, MBFD increased Zinc occupancy from 77 to 159, and the skydeck occupancy from 45 to 92

Community Development Department:

1. Hours for special events with entertainment or amplified sound shall be limited to Sunday-Thursday: 10 AM to 11: 00 PM, and Friday-Saturday: 10 AM to Midnight.
2. Entertainment or amplified sound shall be in conformance with the attached approved floor plan including: the designated amplified live entertainment/performer location adjacent to the east wall of the Zinc Lounge, and a dance floor area approximately 15' by 20' adjacent to the performer area. Entertainment or amplified sound is prohibited on the Zinc Terrace. The outdoor courtyard to the north of the Zinc Lounge and the Skydeck may only be used for Live entertainment, amplified sound or events with a 14 day prior notice and approval of the City.
3. A maximum of 6 performers shall be permitted at any time that amplified sound is incorporated. Entertainment that would result in dancing which exceeds the capacity of the 15' by 20' dance floor shall be prohibited. Entertainment and dancing shall conform to the attached floor plan. All doors leading to the outside shall remain closed at all times.

EXHIBIT N

NO SPECIAL EVENT PERMITS OVER 99 LIMIT RECEIVED

A week after receiving a copy of staff's email below, Shade submitted a schedule of future special events, perhaps their first notification. The schedule includes the heavily-advertised Oct 31 Halloween Bash, open to the public, therefore not a special event, although stated to go until midnight, a violation of the use permit. See the next page.

From: Laurie B. Jester [mailto:ljester@citymb.info]
Sent: Wednesday, September 30, 2009 8:26 AM
To: Don McPherson
Cc: Richard Thompson; Nate Hubbard; Teresa Cho
Subject: RE: Thanks for Update

Don-

In response to your questions-

For four years, neither MBPD nor Community Development ever received a request from Shade for special events over 99 limit. [Bolding emphasis added]

- How many requests did Shade submit in 2008 and 2009 to exceed the 99-person limit for special events? **I checked with Police and Comm. Dev staff and neither of us had records of any formal written requests submitted by the Shade to exceed the limit. [Emphasis added]**
- Does the city conduct an annual or periodic review of Metlox, and if so, when does the next occur? Staff conducts informal administrative reviews of Use Permits generally on an annual basis. Metlox reviews tend to occur in the summer, although we have done informal reviews when UP amendments have been submitted and/or contemplated.

Laurie Jester

310-802-5510

EXHIBIT N

APPARENTLY SHADE'S FIRST REQUEST TO EXCEED 99 LIMIT
--

Date	Event	# of People	Time	Other	
October					
10/9/2009	Laureano Surprise Birthday	50	7:00 - 12:00 AM	Over at 11, out by 12	
10/10/2009	Defilippi Wedding Reception	50	6:00 - 12:00 AM	Over at 11, out by 12	
10/10/2009	Nader-Mamey Wedding Reception	200	4:00 - 10:00 PM		
10/17/2009	Koo-Shim Ceremony & Reception	110	12:00 - 5:00 PM		
10/21/2009	MBYP Wine Tasting	150	6:00 - 9:30 PM		
10/22/2009	Mattel Cocktail Party	100	5:30 - 7:00 PM		
10/25/2009	Mattox/Rollins Ceremony & Reception	120	12:00 - 5:00 PM		
10/31/2009	Shade Halloween Event	200	6:00 - 12:00 AM	←- Midnight	
<table border="1" style="margin: auto; padding: 5px;"> <tr> <td style="text-align: center;"> Being open to the general public, the Halloween bash does not qualify as a 'special event', therefore must end at 11 PM </td> </tr> </table>					Being open to the general public, the Halloween bash does not qualify as a 'special event', therefore must end at 11 PM
Being open to the general public, the Halloween bash does not qualify as a 'special event', therefore must end at 11 PM					
November					
11/1/2009	MBEF Peer to Peer	300	5:00 - 7:00 PM	*Tentative	
11/15/2009	Ezra-Kralis Wedding Reception	100	5:30 - 10:30 PM		
11/18/2009	MB Open House - Shade 4th Anniversary	200	6:00 - 11:00 PM		
December					
12/10/2009	Thornton-Tomasetti Holiday Party	90	*6:00 - 10:30 PM	*Tentative	
12/11/2009	Skechers Holiday Party	250	7:00 - 11:00 PM	Over at 11, out by 12	
12/12/2009	Waters & Kraus Holiday Party	120	3:00PM - 12:00 AM		
12/14/2009	Alfaparf Event	200	7:30 - 10:00 PM		
12/31/2009	Shade New Years Eve Event	200	7-12:00 AM		

EXHIBIT N

STAFF FOUND NO TANGIBLE EVIDENCE OF SHADE NOTIFICATION FOR ENTERTAINMENT EVENTS

From: Eric Haaland [mailto:ehaaland@citymb.info]
Sent: Tuesday, October 20, 2009 1:37 PM
To: Don McPherson
Subject: RE: Shade Notification of Entertainment

Don,

I haven't been notified other than the attached spreadsheet. I'm told we were aware of a recent Oktoberfest event in advance, and that the Police have had notification of at least some of the past events.

From: Don McPherson [mailto:dmcphersonla@gmail.com]
Sent: Friday, October 16, 2009 8:20 PM
To: Eric Haaland
Cc: Richard Thompson; Laurie B. Jester; Nate Hubbard; Stephanie Hubbard; Teresa Cho; Jeff Dooley; Steve Wible
Subject: Shade Notification of Entertainment

Eric,

All four of the Shade entertainment permits require 7-day notification to the police for entertainment events (Police Department-1) and 14-day notification to Community Development for entertainments on the terrace or skydeck (Comm Dev-2.)

How many notifications do MBPD and Community Development have on file from Shade for entertainment events?

Thanks, Don

Excerpts from AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Police Department:

1. The Police Department shall be notified of entertainment scheduling in writing at least 7 days prior to any event.

Community Development Requirement No. 2, same entertainment permit:

The outdoor courtyard to the north of the Zinc Lounge and the Skydeck may only be used for live entertainment, amplified sound or events with a 14 day prior notice and approval of the City.

EXHIBIT O

AD SENT TO PUBLIC RE SKYDECK POOL PARTIES VIOLATES USE PERMIT PROHIBITION

Email sent to PC from Brent Taylor, 17 Jul 2009

----- Forwarded message -----

From: **Brent Taylor** <brentjtaylor@gmail.com>
Date: Fri, Jul 17, 2009 at 9:14 AM
Subject: Shade Advertisement
To: PlanningCommission@citymb.info, rthompson@citymb.info

Dear Planning Commission-

I wanted to send you this new advertisement I happened upon regarding Shade's Sunday Pool Parties. Note how the marketing program explicitly links and compares the Shade to Hollywood. Again, I am continually convinced that the hotel has merely been positioned as a bar with a hotel. Additionally, I am concerned that the proposal (to be picked up again on July 22nd) to extend hours to 1am will find a 'middle ground' of staying open until midnight.

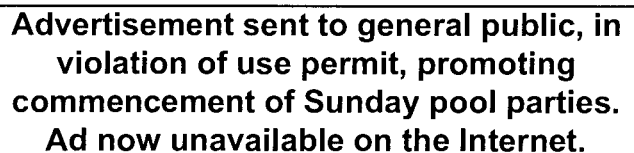
Thank you,

Brent Taylor
520 12th street
310-702-6399

LEGENDARY SUNDAY POOL PARTIES

Hollywood has the Roosevelt Hotel, Downtown has the Standard Hotel and now the Southbay has the Shade Hotel

join us for the launch of skydeck sundays, starting July 19th



Advertisement sent to general public, in violation of use permit, promoting commencement of Sunday pool parties. Ad now unavailable on the Internet.

EXHIBIT P

WIBLE DECLARATION OF SHADE CLOSING-TIME VIOLATIONS FOR TERRACE

1
2
3
4
5 I, Steven Wible, declare:

6 1. I am 62 years old and a resident of the City of Manhattan Beach. I have personal
7 knowledge of the matters expressed in this declaration, and I could testify competently to them,
8 if called to do so.

9 2. On multiple occasions during past years, at nights, I have gone to the Metlox Plaza
10 area adjacent to the south side of the Shade Hotel, because of noise disturbances that disturbed
11 the peace and quiet of our neighborhood, such as waking up our household or making it difficult
12 to enjoy TV. Often on those occasions, after 11 P.M., I observed the terrace on the south side of
13 Shade full of people, making the noise. I am certain of some times being after 11 P.M., because
14 I had to get out of bed, and naturally looked at the clock.

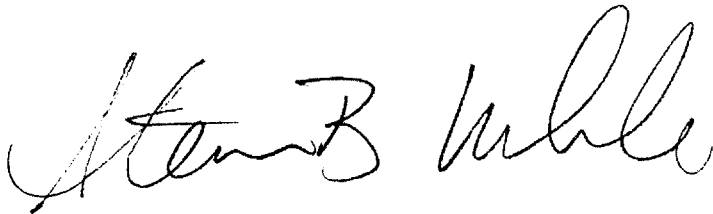
15 3. I have also heard loud music coming from the Zinc bar after 11 PM.

16 4. Until recently, I did not know that an amendment to the Metlox use permit requires
17 the terrace to close at 11 P.M. every day. I also did not know that the Shade entertainment
18 permit requires only "background" music after 10 PM.

19 5. On multiple occasions, I have called the police regarding Shade disturbances, and
20 have met with the responding officer at the Metlox Plaza, adjacent to the terrace, which generally
21 had people on it after 11 P.M. One of these incidents occurred on Saturday, 5 July 2008, and
22 another on, Saturday, 8 November 2008. At the latter, I spoke with Milo Bacic, an owner, who
23 said the party would close at 11:30 P.M.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct.

26 Executed on October 21, 2009, at the City of Manhattan Beach, California.
27



SYSTEMIC ANALYSIS FOR MITIGATION OF SHADE HOTEL DISTURBANCES

Don McPherson, 1014 1st St, Manhattan Beach CA, 310-487-0383, dmcphersonla@gmail.com (changes in underlined in red)

The mitigation matrix relies heavily on absorbing sound before it can escape into the residential neighborhood. For example, the use permit requires the Zinc bar walled off and soundproofed to a sound transmission coefficient of -50 dB, a factor 100,000 reduction. The city did not enforce this requirement on Shade. If they had, it would have totally eliminated a huge amount of the disturbances that impact the neighborhood.

Noise Source	Applicants' Approach	Mitigation Methods from Systemic Analysis	Comments
1. Lobby entrance and driveway	<ul style="list-style-type: none"> ● Mobile glass vestibule ● Crowd control 	1.1 Room keycard-operated bar gate after 10 P.M. for registered-guest entry only; doorman opens gate for new arrivals 1.2 After 10 P.M., all valet deliveries shifted to Morningside 1.3 City ordinance prohibiting taxi drop-offs & pickups at Valley Dr 1.4 Four-foot fence along west border of Ardmore parking lot	<ul style="list-style-type: none"> ● Gate prevents bar patrons from using hotel valet on Valley Drive ● Forces bar patrons to MB Blvd
2. Zinc bar, lounge & terrace	None	2.1 Replace Zinc terrace south-side drapes with sound-absorbing Acousti-Curtain™ material 2.2 Add retractable sound-absorbing drapes on lower tier of east and west glass walls of terrace 2.3 Fill upper tier above existing drapes with sound-absorbing panels; continue around on upper east & west glass walls, and north wall 2.4 Install sound panels on ceilings of bar, lounge and terrace 2.5 Restrict amplified music to background level, less than normal conversation (<60dB)	<ul style="list-style-type: none"> ● Acousti-Curtain™ absorbs over 50% of sound energy on each reflection ● Upper tier completely open on south side of Zinc terrace ● Enforce Finding O in use permit Reso 05-08 that requires Zinc soundproofed to STC-50
3. Zinc waiting queue between Shade & Petros	None	3.1 Option 1: Move queue from Zinc terrace south-entrance to hotel west-entrance. Closes the terrace noisy south-entrance 3.2 Option 2: Reorient existing queue at the terrace south-side along a new sound-absorbing folding gate (required for Sashi sound reduction, Item 6)	<ul style="list-style-type: none"> ● This corridor channels major disturbances into residences ● Option 2 requires mitigation methods for Sashi sound reduction below in Item 6
4. Courtyard Special Events	<ul style="list-style-type: none"> ● Folding glass wall ● Noise meter??? Here, or on skydeck??? 	4.1 Substitute sound-absorbing panels for highly reflecting glass in folding wall 4.2 Replace existing drapes with Acousti-Curtain™ material 4.3 Retractable Acousti-Curtain™ awnings across courtyard open top 4.4 <u>Acoustic engineering analyses to identify mitigation means</u>	<ul style="list-style-type: none"> ● See last page
5. Skydeck Special Events	<ul style="list-style-type: none"> ● Glass windscreens ● Noise meter here??? 	5.1 <u>Acoustic engineering analyses to identify mitigation means</u> 5.2 Remove glass windscreen on west parapet wall 5.3 Deployable sound-absorbing shell on east side for special events	<ul style="list-style-type: none"> ● See last page ● West windscreen reflects up to 98% of noise back to residences
6. Sashi Sushi (Applicant proposes to amend Metlox Master Use Permit, hence amendment can address Sashi)	Not applicable	5.1 Replace sunshade with Acousti-Curtain™ awning, highly pitched down 5.2 Replace existing drapes with Acousti-Curtain™ 5.3 Sound-absorbing panels on Petros north wall 5.4 Sound-absorbing folding gate across corridor between Shade and Petros 5.5 Sound-absorbing Items 2.1 and 2.3 needed for Shade, above	<ul style="list-style-type: none"> ● Sashi bar noise apparent when somewhat west of Shade terrace south entrance. Will need Shade-Petros corridor - mitigation, if Shade disturbances mitigated.

DESCRIPTION OF SYSTEMIC MITIGATION MATRIX FOR SHADE HOTEL DISTURBANCES

Introduction.

I have based this analysis on observations of Shade Hotel operations, testimony at the June 24 and July 22 public hearings, meetings with affected residents, review of the Shade Hotel and Metlox administrative record since July 2002, and Internet research of acoustic technical papers and of technologies available to mitigate noise.

As per the noise mitigation matrix on the previous page, Shade creates disturbances in the neighborhood from five different locations at the hotel. The matrix also identifies the Sashi patio as having significant disturbance potential, currently masked by high-intensity noise emanating from Shade. The descriptions below address each of the six locations that create the residential disturbances.

Motivation for conducting this analysis came from the frustration expressed at the July 22 hearing by planning commissioners, over not having a systematic and quantitative approach for evaluating noise mitigation options.

An integral feature for mitigation comprises tests to determine maximum levels of amplified music and voice permitted in the courtyard and on the skydeck. See the end of the paper for preliminary comments on the acoustic engineering analysis conducted by the city.

Lobby Entrance and Driveway during Zinc Bar High Occupancy, After 10 P.M.

The lobby is essentially an extension of the Zinc lounge, so with the door open, the entrance roars, as noted by commissioners. The applicant proposes a mobile glass vestibule, which will reduce the outside noise level. The glass will, however, reflect over 95% of the noise back into the lobby, where it will reverberate throughout the Zinc bar, lounge and terrace, raising the sound energy density, before escaping elsewhere.

The hotel also conducts crowd control with temporary barriers to prevent driveway entry and actions to discourage taxi pickup and discharge on Valley Drive. The use permit has no conditions addressing these measures, so presumably, they will end after permit amendment approval.

For late night, after 10 P.M., the mitigation matrix lists a bar gate opened only by registered guests with room card-keys or by the doorman, to prevent bar patrons from using hotel valet service on Valley Drive. Also, a city ordinance prohibiting taxi late-night discharge and pickup of passengers on Valley will reduce disturbances, especially if periodically monitored on webcam by MBPD. After 10 P.M., all pickups of vehicles by bar patrons and hotel guests should occur on Morningside. Few registered guests will leave the hotel by their car late at night.

Zinc Bar, Lounge & Terrace Noise Absorption during High-Occupancy Late-Night Use.

Solid surfaces reflect 95 to 98% of sound intensities, which through many reflections, add up to create 'reverberation', an acoustical term explaining increased noise energy-densities far higher, than if the Shade party occurred at an outside open venue. Much of the Zinc noise escapes out through the terrace open south-side, where it reverberates anew in the corridor between Petros and Shade. This corridor channels the noise directly into the residential area. If the city enforced Finding O requiring Zinc soundproofed to STC-50, the bar would not create any disturbances.

Other than taking away the punch bowl at the nightly Shade party, absorption of sound comprises the only means to mitigate the disturbance. The measures in the mitigation matrix address practical ways to absorb sound before it can escape. The Zinc terrace has drapes on the open south side, which need replacing by an absorbing material, such as Acousti-Curtain™. The lower tiers of the east and west glass walls need drapes as well. The open upper tier of the south side, as well as the upper east and west glass walls, the north wall and the ceilings, all need to have sound-absorbing panels, of which many architecturally-pleasing designs exist

Recall that sound reflects many times before escaping outside. Each reflection from sound-absorbing materials reduces the energy level by half or more. Three or four bounces can result in a factor of ten reduction, about the level necessary to mitigate the residential disturbances.

DESCRIPTION OF SYSTEMIC MITIGATION MATRIX FOR SHADE HOTEL DISTURBANCES

Zinc Waiting Queue in Corridor between Shade and Petros.

The applicants maintain a waiting queue at the Zinc terrace south-entrance, where they conduct a security check as well. Defined by velvet ropes on standards, the queue stretches westward to the Metlox Plaza, with loudly talking patrons facing eastward. The corridor efficiently channels the voice noise directly into the residential area, 150-200 feet distant.

Two options exist to mitigate this disturbance. The most effective moves the queue to the Shade west entrance, slightly north of Sashi. After being checked, bar patrons would enter through the east-west corridor that separates the hotel-courtyard sector on the north from the public areas on the south, including the Zinc bar, lounge and terrace. During late night, this option closes the terrace south-entrance with Acousti-Curtain™, thus eliminating a major noise source that reverberates in the Shade-Petros corridor.

The less-desirable option would reorient the queue up against a sound-absorbing folding gate that, after 9 P.M., would stretch across the east end of the Shade –Petros corridor. This option requires sound-absorbing panels on the Petros north wall to reduce reverberation. The folding-gate and Petros panels constitute part of the mitigation for Sashi bar noise, which becomes apparent when walking into the Metlox Plaza.

Mitigating Courtyard Noise during Special Events.

The applicant proposes a folding glass wall to separate the courtyard from the Zinc venue, presumably to reduce noise experienced in hotel rooms adjacent to the courtyard, when Zinc goes over-active. At the June 24 hearing, staff testified that originally, they opposed any sound barrier between Zinc and the courtyard, believing that the applicants would keep bar noise at a minimum, so as not to disturb hotel guests. Instead, the applicants sacrificed room quiet for alcohol profits. Nevertheless, they recognize the value of humoring hotel guests as a second priority, so have requested a glass folding wall to reduce hotel-room disturbances.

From the perspective of reducing residential noise, the folding wall will accomplish that, but only if constructed from sound-absorbing panels, rather than glass. As cited previously, glass reflects up to 98% of sound energy. Consequently, when the Zinc venue rocks, and if the folding glass wall remains closed, instead of escaping into the courtyard, additional reflected sound will reverberate through the bar scene, increasing noise energy levels there, and the resulting disturbances in the residential neighborhood.

A folding wall of sound panels, with a septum between surfaces, will partially absorb and completely block noise from the bar, thus reducing the disturbances both in hotel rooms and residences. During special events in the courtyard, if so stipulated by the use permit, an almost-closed folding wall of sound panels will absorb amplified music and voice, as well as the babble, thus also reducing disturbances in rooms and residences.

The courtyard currently has drapes, to visually isolate it from hotel rooms and corridors during special events. Replacing those drapes with Acousti-Curtain™ will significantly reduce reverberation energy intensities, as well as the need for attendees to shout over the background.

In the courtyard, noise has only one place to go, namely up and out the open top, to be wafted by the prevailing westerly wind into the residential neighborhood. A segmented awning of retractable Acousti-Curtain™ strips, like horizontal, roll-able window shades, will significantly reduce those disturbances during special events. Most of the time, the strips would remain rolled-up, leaving hotel guests to enjoy the open sky.

Either in the courtyard or on the skydeck, the applicants maintain noise meters, set to trigger at 85 dB, the maximum level allowed for commercial property by the noise ordinance, MBMC §5.48 (attached as Exhibit A.) An overriding section of the noise ordinance, however, MBMC §5.48.140, prohibits anyone from making continuous or periodic noise that creates a disturbance. Testimony at the June 24 and July 22 provides incontrovertible evidence that Shade creates disturbances in the residential neighborhood, “traumatic” as characterized by one commissioner.

DESCRIPTION OF SYSTEMIC MITIGATION MATRIX FOR SHADE HOTEL DISTURBANCES

The last item in the discussion, concluded next, summarizes a test program to determine the effectiveness of mitigation measures, to eliminate the violation of MBMC §5.48.140, and hence the use permit, which requires compliance with the municipal code.

Skydeck Noise Mitigation.

For the skydeck, the applicants invoke their glass windscreens mounted on the outer parapet walls as a sound-mitigation measure. As per previous citations regarding the highly-reflective property of glass, the windscreens aggravate the residential noise disturbance, especially the west walls. Sound that otherwise would harmlessly escape toward the ocean reflects back from the western glass windscreen and parapet wall into the residential area. Residents' testimonies state that they can clearly hear grooms reciting their vows.

I have not had the opportunity to view the skydeck nor learn the layout of entertainment and other activities during special events. Consequently, the mitigation matrix lists only a generic concept of a temporarily erectable shell of sound panels that would absorb and block noise in directions toward residences.

The test program, addressed below, will also measure the maximum-allowed levels of amplified sound and voice on the skydeck.

Sashi Saki Bar Noise Mitigation.

As one walks west from the south entrance to the Shade Zinc terrace, the noise from the Sashi sake bar becomes apparent. The corridor between Petros and Shade channels the noise directly into the residential area. Sound absorbing materials on south side of the Shade terrace and north side of Petros will significantly reduce reverberation in the corridor. A 15-ft high sound-absorption folding gate between Shade and Petros at the east end of the corridor, closed after 9 P.M., will provide some mitigation to Ardmore Ave residences, but not further up the 12th St hill. Moving the gate to the west end of the corridor provides more mitigation. In either location, the folding gate will prevent bar patrons from exiting Metlox through the Shade-Petros corridor to Valley Dr, fronting on the residential area.

City Acoustics Engineering Analysis Conducted by Begrens & Associates.

The city provided its acoustics engineering report Wednesday 21 Oct 2009, so not analyzed at this time.

Nevertheless, a quick scan shows an unexplainable major flaw, that the city did not evaluate the Zinc soundproofing requirement included in Finding O of the Metlox Use Permit amendment PC Resolution 05-08.

Behrens and Associates, Inc.

Acoustics, Noise and Vibration Consultants

October 23, 2009

City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

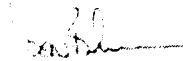
Attention: Laurie Jester, Planning Manager

Subject: Shade Hotel Noise Impact and Mitigation Evaluation Report Addendum No. 1

Dear Ms. Jester,

Per your request we have completed a sound level survey of numerous Restaurant/Lounge/Clubs in the Manhattan Beach and Hermosa area on Friday and Saturday evenings between 9:00 and 11:00 PM during the month September 2009 and have prepared the following summary of the measured results. This report is submitted as a Addendum to the Shade Hotel Noise Impact and Mitigation Evaluation Report dated October 21, 2009.

Very truly yours,



Don Behrens
President

LATE
Attachment

PC.

10/28/09

Behrens and Associates, Inc.

Acoustics, Noise and Vibration Consultants

The Shores Restaurant and Lounge
 1320 Hermosa Avenue
 Hermosa, CA

Location Number	Measurement Location	Average Sound Level (5 min Leq) in dBA		
		Interior Amplified Music Level Loud	Interior Amplified Music Level Medium	Interior Music Level Off
1	Inside Next to Stage	88.1	81.9	66.1
2	Outside at Property Line	72.5	65.9	68.6
3	Hermosa Avenue Center Median (approx 50 ft from property line)	63.8	61.3	58.8
4	Parking Lane on Westside of Hermosa Avenue (approx 80 ft from property line)		61.8	61.8
5	Northeast Corner of 14 th & Hermosa Ave Intersection: 1400 Hermosa Ave	57.9		
6	Outside Residence: 68 14 th Street	52.1		
7	Outside Apartment Building behind Underground Bar: 1331 Manhattan Ave	53.8		

5 Minute Average Sound Level Comparison Chart

Behrens and Associates, Inc.

Acoustics, Noise and Vibration Consultants

12th And Highland
304 12th Street
Manhattan Beach, CA

Location Number	Measurement Location	Interior Amplified Music Level	Interior Music Level Off
1	Inside Restaurant	91.0	68.2
2	Outside on Sidewalk	79.1	
3	12 th Street (approx 50 ft from restaurant)	67.4	

Sharks Cove
309 Manhattan Beach Boulevard
Manhattan Beach, CA

Location Number	Measurement Location	Interior Amplified Music Level
1	Inside Restaurant	78.4
2	Outside on Sidewalk	66.0
3	South side of Manhattan Beach Boulevard (approx 50 ft from restaurant)	58.0

Behrens and Associates, Inc.

Acoustics, Noise and Vibration Consultants

O B's Grill & Bar
3610 Highland Avenue
Manhattan Beach, CA

Location Number	Measurement Location	Interior Amplified Music Level
1	Inside Bar	76.8
2	Outside on Sidewalk	68.3
3	West side of Highland Avenue (approximately 50 ft from bar)	59.0

Shade Hotel
1221 N Valley Drive
Manhattan Beach, CA

Location Number	Measurement Location	Interior Amplified Music Level
1	Outside on Sidewalk, 10 feet from entrance doors	68.2 Average 75.7 Max (Doors Open)
2	West side of Valley (approximately 33 ft from terrace)	68.0

Angela Soo

From: Laurie B. Jester
Sent: Monday, October 26, 2009 11:55 AM
To: Angela Soo
Subject: FW: prep for Oct 28 hearing

Please print out 10 copies of this e-mail and attachments for Wed PC meeting-thanks

Laurie Jester
310-802-5510

From: Nate Hubbard [mailto:natehubz@mac.com]
Sent: Monday, October 26, 2009 9:19 AM
To: Laurie B. Jester
Cc: Richard Thompson; List - Planning Commission
Subject: prep for Oct 28 hearing

Good Morning Laurie,

I dropped off my DVD of the OCTOBERFEST disturbance for you this morning.

I would like to remind you of items necessary for the Shade hearing on Wednesday. They relate to information we would like Capt John Dye of the MBPD to present, the two audio-visual playbacks at the hearing of Shade disturbances, and the advertising flyer circulated by Shade for their Halloween Bash next Saturday, October 31.

We have five topics for Captain John Dye of the MBPD, as follows:

-Dye1. On Saturday September 12, when Behrens took data at the neighbor's houses, including mine, somebody called the police regarding a disturbance, Call No. 092550666 and Report No. 09-3862. I do not know which neighbor called, but given the name, I can arrange for that person to provide a release. We would like Capt Dye to summarize the report for the discussion on the Behrens acoustic engineering analysis, specifically for the night of Saturday September 12, which Behrens analyzed noise standards compliance.

-Dye2. On Sunday September 27, for the Shade Octoberfest disturbance, the police received Call No. 092700633 and prepared Report No. 09-4072. At the hearing, I would like the DVD played I delivered today that I made of the disturbance. I would like Capt Dye to summarize the report that documents the disturbance.

-Dye3. Please ask Capt Dye to update the list of police calls for Shade disturbances. since his report at the hearing on June 24.

-Dye4. Captain Dye and I had a discussion on what basis would the MBPD cite Shade for violation of the noise disturbances section of the municipal code (attached). He mentioned something about the 12 standards in 4.48.140. Please ask Capt. Dye to summarize the criteria that the police would use to cite Shade for noise disturbances

Dye 5. Capt Dye sent me an email (attached) explaining the new MBPD criteria for enforcing Zinc and terrace closing hours. Please ask him to summarize what the officers will do regarding closing hour violations.

10/26/2009

We have two items regarding audio-video playback of noise disturbances at Shade:

-AudioVideo1. I will provide you the aforementioned DVD of the video I shot during the September 27 Octoberfest disturbance. Please test ahead of time that the DVD will properly play.

-AudioVideo2. Behrens will play audio recorded from our 3rd floor deck during the aforementioned skydeck party on September 12. Please have Behrens adjust the volume, so that the commissioners hear what Tom Corbishley, the Behrens analyst, and I experienced that evening.

Shade Halloween Bash.

In violation of the use permit, Shade has heavily advertised their Halloween Bash for Saturday October 31. See the attached flyer, featured Shade's FaceBook page. Shade included the Halloween Bash in their Excel spreadsheet of Special events. Because Shade has advertised the party to the general public, it does not qualify as a special event.

According to the Shade flyer, they will have the 'wildest Halloween party in the South Bay'

We expect the MBPD and the city to enforce all regulations regarding the Halloween Bash, such as:

-Skydeck alcohol service will end at 9 PM and close at 10 PM

-Zinc alcohol service will stop at 10:30 PM, the terrace will close at 11:00 PM and the Zinc bar at 11:30 PM, as per Capt Dye's email attached

-We do not believe that the use permit allows alcohol service or consumption by the general public or hotel guests in the courtyard.

-As per the annual entertainment permit, after 10 PM, only background music; no DJ.

Thanks!

Nate Hubbard

From: John Dye <jdye@citymb.info>
Date: October 9, 2009 8:22:21 PM PDT
To: Nate Hubbard <natchubz@mac.com>
Cc: Rod Uyeda <ruyeda@citymb.info>, Derrick Abell <dabell@citymb.info>, Tim Hageman <thageman@citymb.info>
Subject: RE: Metlox courtyard at 11pm

Nate:

I have received updated enforcement instructions regarding the Shade's hours. The Chief and Richard Thompson met today and it was decided that the outside patio is still to close at 11pm. The interior lobby/bar area presents some other issues since it's a common area for both the bar, and hotel patrons operated on a 24 hrs. basis. The lobby bar is still to close at 11pm but no enforcement citations are to be issued due to people being in the lobby finishing their beverages until after 11:30pm.

The roofdeck and courtyard areas have not changed.

I am sending this to you so you know what my actions will be based on the time frames for the different locations.

Thanks.

Lt. John Dye

5.48.140 Noise disturbances.

A. Notwithstanding any other provisions of this chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness. The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

1. The level of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level and intensity of the background noise if any;
5. The proximity of the noise to residential sleeping facilities;
6. The nature and zoning of the area within which the noise emanates;
7. The density of the inhabitation of the area within which the noise emanates;
8. The time of the day and night the noise occurs;
9. The duration of the noise;
10. Whether the noise is recurrent, intermittent or constant;
11. Whether the noise is produced by a commercial or noncommercial entity;
12. Whether the noise occurs on a weekday, weekend, or holiday.

B. The City may issue a citation against the person, persons, or entity responsible for the noise including, but not limited to, the property owner or business operator on whose premises the noise originates.

(§ 6, Ord. 1957, eff. December 5, 1996)

welcome to the jungle

Halloween 2009

Shade Hotel's Zinc Lounge Presents

The South Bay's Wildest Halloween Bash

Saturday, October 31st

7pm - Close; 4-7pm Get Your Fix for Six Happy Hour

Features

- ◀ DJ and Dancing
- ◀ Jungle Juice Cocktails
- ◀ Tricks and Treats for Mind Blowing Costumes
- ◀ Wild Cats on the Prowl

For Table Reservations Please Call 310.406.6801

- ◀ VIP Bottle Service
- ◀ Jungle Juice Pitchers

Spend the Night – Deluxe Spa Rooms for \$345

- ◀ Includes \$50 to the Zinc Lounge and Beach Breakfast Buffet
- ◀ Call 866.96SHADE for reservations



1221 N Valley Dr. Manhattan Beach, CA 90266
www.shadehotel.com 866.SHADE96

Laurie B. Jester

From: Nate Hubbard [natehubz@mac.com]
Sent: Tuesday, October 27, 2009 8:40 AM
To: List - Planning Commission; Richard Thompson; Laurie B. Jester
Subject: Planning Commissions



NoiseReportCritique
RevA.pdf (3...

Dear Commissioners, , As predicted, in our haste to get you the review of the noise report yesterday evening, we made a serious error that needs correcting, namely at the end of the document, the calculation of how much the measured Shade noise levels exceed the municipal code standards., , The correction does not change our conclusions in any way., , Please discard the file sent yesterday, and replace it with the attached review., ,

Thanks,

Nate Hubbar

d

CRITIQUE OF NOISE REPORT SHOWS SHADE VIOLATED STANDARDS

At the September 2, 2009 meeting to discuss the acoustic engineering analysis of Shade disturbances, the attendees concurred that evaluation of mitigation options would constitute the most important result. The Behrens report has fulfilled that promise.

Unfortunately, however, the debate whether Shade does or does not violate noise standards set forth in the municipal code has hijacked the process of identifying mitigation measures to stop the disturbances. This turn of events, which distracts all involved, becomes exceedingly frustrating, because whether Shade does or does not violate the standards is completely irrelevant.

Summary.

The report does a good job evaluating sets of options to mitigate the Shade noise disturbances. Astoundingly, however, it does not address the requirement in the Metlox use permit amendment, PC Resolution 05-08, to soundproof the Zinc bar to the ASTM International standard of STC-50, which would result in a demonstrated reduction of Zinc noise by 45 dB, a factor of 30,000.

With that statement, this critique does not further pursue the city's failure to evaluate the required Zinc soundproofing; neither complied with by Shade, nor enforced by the city. Consideration of mitigation option effectiveness gets addressed in the neighborhood list of conditions required for the new use permit, a separate document.

Base on information provided in the report, and certain assumptions, it appears the report erroneously concludes that Shade does not violate noise standards set forth in the municipal code, Chapter §5.48 Noise Regulations. To the contrary, this review concludes that the report provides sufficient data to prove Shade does violate noise standards, discussed next

Errors in the City Noise Report.

This review concludes that the city noise report incorrectly and improperly applied requirements stipulated in the Exterior Noise Standards section of the municipal code, MBMC §5.48.160, excerpted at Exhibit A.

Additionally, this review concludes that the noise report improperly evaluates ambient noise, by assuming that the measurements from Monday September 14, 2009 represent the ambient noise for the measurements taken two days before, during a skydeck party held on Saturday September 12.

Report erroneously increased standards by 5 dB for an invalid Land Use Correction.

When evaluating measured noise versus standards, the analyst must consider three corrections stipulated in MBMC §5.48.160, as excerpted in Exhibit A, and numbered in the order addressed herein.

At the bottom of Pg 2, the report states that the measuring sensors were located on the boundary between the commercial zone (Shade) and the residential area to the east. If that the actual case, then the municipal code at Exhibit A, §5.48.160 F would require:

““§5.48.160 F. If the measurement location is on a boundary between two (2) different land use classifications, the noise level limit applicable to the more restrictive land use classification plus five (5) dB, shall apply.”

As result, by incorrectly assuming the sensors located on the commercial-residential zoning border, the city erroneously increased all residential noise standards by 5 dB, significantly raising the threshold for Shade to violate the standards.

The residential area does not, however, border the Downtown Commercial zone, as shown in the city zoning map, Exhibit B. The residential area borders the Valley-Ardmore parkway, an Open Space zone, which does not have any noise standards assigned to it in the municipal code. In this case, the Land Use Correction cannot even apply.

The city would have no basis to assign commercial noise standards to Open Space zoning. In the Shade case, a logical interpretation would assign commercial noise standards to the west edge of Valley, and residential noise standards to the middle of Ardmore, where the zoning map shows the two boundaries lie.

Furthermore, because the boundary of the Valley-Ardmore zone runs down the middle of Ardmore, as the city zoning map shows, the measuring sensors did not lie on that, or any other zoning boundary.

Bottom Line: Table 1-3 in the report presenting the 5-dB increased noise standards is invalid; Figures 1-1 and 1-2 provide the valid noise standard values to use, when accounting for the remaining two corrections required in MBMC §5.48.160.

Report fails to account for Characteristics of Noise, as required by municipal code.

Whereas the report explicitly addresses, although erroneously, the Land Use Correction, it remains silent on the other two corrections required in the municipal code. The second enumerated correction, identified at Exhibit A, MBMC §5.48.160 E, addresses the issue of Sound Characteristics, stated as follows:

“§5.48.160 E. Correction for Character of Sound. For any source of noise which emits a pure tone or contains impulsive noise, the noise standards as set forth in this section shall be reduced by five (5) dB. Examples of impulsive noise include fire alarms, hammering operations, impact wrenches, and other mechanical devices that produce noise levels with a quick onset and delay. Examples of pure tone noises include whistles, bells, and other mechanical devices that emit a tone that is distinguishable by the City employee or contractor.”

With this correction, the code acknowledges that the human ear and brain can filter out random noise, and thus, figuratively amplify sound containing information. By analogy, we can to some extent tolerate the ‘white noise’ roar of a busy highway, but the piercing staccato of a Harley on that road annoys us. Airplanes have high white-noise levels, at least where most of us sit, but if we heard a repetitive, barely-audible click, clank or ting, that would discomfort us.

At the October 28 hearing, resident Nate Hubbard will run a video, with sound, of the residential area under siege by the Sunday September 27 Octoberfest. Perhaps the Behrens sensors would not have detected the Shade group-sing, but the commissioners will.

The city noise report does not adjust the standards in Tables 1-1 and 1-2 for the required minus 5dB correction, to account for impulsive sounds, such as the thump-thump of music base, women’s screams or men’s shouts. The noise report also does not correct the standards for pure-tone sounds, such as amplified music or voice. As result, even Tables 1-1 and 1-2 have invalid noise standards, when applied to Shade noise disturbances.

Commissioners can easily correct the errors in their copies of the noise report, for both the erroneous Land Use Correction and omitted Sound Characteristics Correction, by simply reducing the invalid numbers in Table 1-3 by 10 dB. That will provide the valid noise standards. This report provides that corrected Table 1-3, as follows:

Corrected Table 1-3. City of Manhattan Beach Exterior Noise Level Limits with All Corrections Required by Municipal Code

Cumulative Duration	Noise level that may not be exceeded (dBA)	
	Daytime (7 AM to 10 PM)	Nighttime (10 PM to 7 AM)
30 minutes in an hour	45.0 55.0	40.0 50.0
15 minutes in an hour	50.0 60.0	45.0 55.0
5 minutes in an hour	55.0 65.0	50.0 60.0
1 minute in an hour	60.0 70.0	55.0 65.0
Maximum level	65.0 75.0	60.0 70.0
Average Noise Level	50.0 60.0	45.0 55.0

Report fails to separate measured noise from ambient, as required by municipal code.

The third enumerated correction identified in the municipal code excerpt, at Exhibit A, MBMC §5.48.160 D, addresses the need to reduce the measured noise level by the ambient level. This correction favors Shade, because it reduces the dB level of the measured noise compared to the noise standards, in the above corrected Table 1-3.

In some cases, these corrections are negligible, but in any case, must be corrected just before the final step in the analysis, when comparing measured noise to the standards.

How does one determine the ambient noise at 11 PM Saturday night, without including Shade noise? Unfortunately for the neighbors, the hotel does not have an off switch.

Report improperly determines the ambient noise levels.

Ambient noise levels in the report came from measurements between 9 and 11 PM on Monday September 14, two days after the Saturday September 12 measurements of the skydeck party. The report concludes that the relatively small increases in Saturday levels compared to those on Monday resulted from more downtown activity on the weekend night.

Consequently, the city states that Shade does not raise noise levels by a detectable amount. The report probably made a correct conclusion, except for the following three sets of measurements: Maximum level, 1-minute in an hour, and possibly five-minutes in an hour.

Is it correct, however, to use the Monday data as ambient levels for the Saturday noise measurements? **Short answer: absolutely not.** Explanation of that 'No' answer needs the Saturday noise measurements, Table 1-5 in the report, copied as follows.

Table 1-5. Saturday Evening Measurements on Ardmore Ave

Cumulative Duration	Saturday Evening Measurements on Ardmore Ave			
	1300 Ardmore	1212 Ardmore F	1212 Ardmore R	1148 Ardmore
30 minutes in an hour	55.4	53.3	46.6	58.9
15 minutes in an hour	58.2	55.4	47.7	60.8
5 minutes in an hour	63.5	61.4	49.6	63.8
1 minute in an hour	66.9	66.3	52.5	67.7
Maximum level	76.9	74.2	62.6	79.3
Average Noise Level	58.9	57.2	47.7	61.0

Consider comparing these Saturday numbers with the equivalent numbers for Monday, purportedly representing the ambient noise level without Shade. Take the Maximum Level of 76.9 dB at 1300 Ardmore, the loudest single measurement in two hours. Compare that to the 70.9 dB level for 1300 Ardmore taken on Monday, also the loudest single measurement that night. (Look at Table 1-6 in your noise report for the Monday noise levels.)

These two noise events have nothing in common, other than being the loudest noises on their respective nights. Claiming that the single Monday-night loudest noise represents the ambient level for the single Saturday-night loudest noise has absolutely zero validity.

Consider the other extreme. Compare the averages of the two-hour measurements at 1148 Ardmore Ave for Saturday and Monday nights, 61.0 dB and 60.2 db respectively. All the information about impulsive Shade noise gets washed out in the averaging process. To say that Monday averages constitute the ambient noise for Saturday measurements has no more validity than trying to use the Monday loudest event as ambient for the Saturday loudest event.

Averaging buries the impulsive Shade noise information in the real ambient noise, comprising the Downtown hubbub, the Valley-Ardmore traffic and the dull roar of the ocean.

Does this make a determination of ambient noise impossible? Not at all. The Average Noise Levels in report Table 1-5, copied above, provide approximate ambient noise levels, actually numbers a little louder, because they include the Shade white noise added to the rest of the downtown clamor. Best of all, these surrogate 'ambient noise levels' were recorded on Saturday night, coincident with the short-duration impulsive noise events being analyzed.

A proper way to determine ambient noise levels.

Think about the Shade white noise, the indistinct, unintelligible babble from hundreds of people drinking. On top of that steady-state roar, however, rides the bursts of shouts, screams, and pounding throbbing rhythms, observed by the Behrens analyst and recorded by their sensors. This constitutes the 'impulsive' noise from Shade that Behrens can identify and correlate with peaks in the measurements, such as the maximum, one-minute and five-minute measurements in Table 1-5.

Caveat. The municipal code requires that if ambient noise levels exceed the standards, then the ambient noise must stand as the standard. As it turned out for the Saturday September 12 measurements, however, only one case existed where the ambient noise less 5 dB exceeded the standard, that being at 1148 Ardmore, for the 5-minute measurement.

This completes the analysis of errors in the city noise report. Next, the review provides the correct comparisons between maximum, one-minute and five-minute measures and the standards, whether taken from Table 1-3 or calculated from values used for ambient noise.

For Short-Duration Noise, Shade Noise Levels Exceed Municipal Code Standards.

The new table on the next page provides the margins in dB, by which the short-duration measurements made on Saturday September 12, during the skydeck party, either exceeded or fell short of the standards. The negative margins for the ground-level measurements at the rear of 1212 Ardmore Ave means the noise there did not exceed the standard.

For ambient noise at each of the four locations, this calculation uses the two-hour average noise levels in Table 1-5, values which include Shade white noise. Consequently, this assumption provides ambient noise levels larger than the real, but not measurable, ambient noise. As result, the calculations **underestimate** the margins by which Shade noise exceeds the standards, thus being a conservative calculation of how much Shade violates the standards.

Because the city noise report does not identify whether the short-term noise occurred before or after 10 PM, the table provides margins for both cases, being 5 dB higher after 10 PM.

Additionally, the city noise report does not identify whether the short-term noise measurements in the previous table correlate with impulsive noise events from the skydeck party. Behrens needs to make that determination from the raw recorded audio data.

If some or all of the short-term measurements in the previous table do not correlate with Shade noise, presumably, Behrens can find other measurements of impulsive noise that do correlate. The measurement-to-standard ratios in the table below have sufficiently high dB margins, that even diminished measurement values that do correlate with Shade will no doubt exceed the standards.

Calculations of intensity versus standard, for Shade short-duration impulsive noise events.

Cumulative Duration	Margins by Which Measurements Exceed or Fall Short of Standards, dBM							
	1300 Ardmore		1212 Ardmore F		1212 Ardmore R		1148 Ardmore	
	<10 PM	>10 PM	<10 PM	>10 PM	<10 PM	>10 PM	<10 PM	>10 PM
5 minutes in an hour	6.5	11.5	4.4	9.4	-9.4	-4.4	4.8	9.8
1 minute in an hour	5.9	10.9	5.3	10.3	-9.5	-4.5	6.7	11.7
Maximum level	11.9	16.9	9.2	14.2	-2.4	2.6	14.3	19.3

If one tries to check the numbers in the above table, by subtracting the standards in Table 1-3 from the measured levels in Table 1-5, they will find that some margins fall short by one or more dB. Recall on Page 3 of this report, that a third correction needs to be made, to subtract the ambient noise from the measured values. This correction has resulted in some values in the above table being less than the differences between the Table 1-5 and 1-6 values.

Conclusions.

A great deal of time and research went into this draft review during the past several days. No doubt, this draft in present form has many errors, but it needs distribution, in order for city staff and Behrens to comment and refute, if necessary.

In conclusion, however, unless refuted, it appears that the city noise report has serious errors related to interpreting the municipal code.

No intent here, nor desire, to assign blame. This review has the purpose to resolve any possible questions regarding the noise report, which as stated, fulfilled its promise as an excellent tool to evaluate mitigation options for stopping the Shade noise disturbances.

EXHIBIT A OF NOISE REPORT CRITIQUE

THREE CORRECTIONS STIPULATED FOR STANDARDS; INCORRECTLY INCORPORATED INTO CITY NOISE REPORT

§5.48.160 Exterior noise standards.

A. The following exterior noise level standards unless otherwise specifically indicated, shall apply to all receptor properties within a designated noise zone. The LEE method (Table 6) or the LNG method (Tables 1 through 5) may be utilized at the option of the investigating City employee or contractor.

NOTE: MBMC §5.48.160 B and §5.48.160 C removed from this excerpt.

(§5.48.160) D. If the ambient noise level is measured by stopping the operation of the alleged intrusive noise source, then the alleged intrusive noise source shall be determined by subtracting a value from the total noise level measured at the same location with the alleged intrusive noise source in operation. The values in the following table shall be utilized to determine the intrusive noise level based on the amount by which the noise level decreases when the noise source is turned off.

TABLE INSET:

Noise Level Decrease with Noise Source Off	Value to Subtract from Total Noise Level to Obtain Intrusive Noise Level
0	10 dB
1	7
2	4
3	3
4--5	2
6--9	1
10 or more	0

3. Presumably, the report erroneously ignored subtracting from the noise measurements, the corrections required by this table to separate the intrusive noise component from the ambient component. (MBMC §5.48.160 D)

2. The report erroneously ignored subtracting the minus 5dB correction to noise standards, for Character of Sound (MBMC §5.48.160 E), required for 'impulsive' noise (thumping music base, women's screams, men's shouts) or 'pure tones' (amplified music & voice, and crowds singing)

(§5.48.160) E. Correction for Character of Sound. For any source of noise which emits a pure tone or contains impulsive noise, the noise standards as set forth in this section shall be reduced by five (5) dB. Examples of impulsive noise include fire alarms, hammering operations, impact wrenches, and other mechanical devices that produce noise levels with a quick onset and delay. Examples of pure tone noises include whistles, bells, and other mechanical devices that emit a tone that is distinguishable by the City employee or contractor.

(§5.48.160) F. If the measurement location is on a boundary between two (2) different land use classifications, the noise level limit applicable to the more restrictive land use classification plus five (5) dB, shall apply.

1. Report erroneously increased noise standards by plus 5 dB, by incorrectly applying the Land Use Correction, MBMC §5.48.160 F.

Angela Soo

From: Laurie B. Jester
Sent: Wednesday, October 28, 2009 9:00 AM
To: Angela Soo
Subject: FW: Residents Use Permit Conditions

15 copies please

Laurie Jester
310-802-5510

From: Nate Hubbard [mailto:natehubz@mac.com]
Sent: Wednesday, October 28, 2009 7:24 AM
To: List - Planning Commission; Laurie B. Jester
Cc: Richard Thompson
Subject: Residents Use Permit Conditions

Dear Planning Commissioners,

Apologies for the delay in getting this to you, but I had a short-notice meeting with a client until nearly midnight. Although Don sent you the file for the Residents Use Permit Conditions, I have also attached it.

The attachment lists the conditions we residents want in the Shade use permit. This compilation has resulted from two months of constant emails and meetings, and represents the consensus of our core group.

We do not expect approval at the October 28 hearing, but rather a determination that our conditions represent a good starting place.

Although we oppose any extension of hours, our conditions are not dependent on either of the two alternatives, staying with 11 PM for Fri-Sat, or extending to midnight. We only ask that noise mitigation gets demonstrated before making a closing-time extension effective. We do not want to depend upon the mitigation estimates provided in the Behrens report, which provides good tradeoffs among options, but no assurances they work as modeled.

Rather than staff taking your direction and going off to draft the resolution, we want to work with them, to jointly come to an agreement on our conditions. Neither staff nor Shade have submitted any proposals for the use permit. We seem to be the only ones who remain standing. In consideration of our efforts, we request that staff work with us, rather than having veto power over what makes it into the draft resolution. We do understand that the city attorney might rule one or more items as unlawful.

We have good skills to obtain a consensus, and believe we can work with staff, so that you will only have a few issues with which to deal at the continued hearing.

Our list of conditions represent a fusion of PC Resolution 05-08, the annual entertainment permit, and what we have learned about living with Shade. As per my letter to you last week in the packet, we

10/28/2009

believe the existing permits have most of the necessary requirements, They just need to be updated and made more specific to remove ambiguities and loopholes, as well as being enforced.

An example is the closing time for the skydeck, 10 PM. Special events have a midnight closing. Does that mean special events can go until midnight on the skydeck, or must they stop at 10 PM? In our list of conditions, special events on the skydeck stop at 10 PM, and on the terrace, at 11 PM.

We have only one entirely new condition, and that mirrors the alcohol-food ratio in the ABC licenses. Having more than enough ground to cover tomorrow night, we would like to present our case for a alcohol-food condition at the next hearing, when you will approve a resolution.

In conclusion, we really want to work closely with staff and will not slow them down. We do not, however, want to be presented with a draft resolution sight-unseen, five days before the planning commission approves it.

One more request. Please, please do not schedule the continued public hearing on November 25, the day before Thanksgiving

Thanks Nate Hubbard

RESIDENT USE PERMIT CONDITIONS

FINDINGS.

RF-1. The Shade Hotel disturbs the peace and quiet of the adjoining residential neighborhood. Its disturbances discomfort and annoy residents.

RF-2. Noise from the Shade Hotel exceeds the exterior noise standards set forth in Chapter 5.48, Noise Regulations, of the Manhattan Beach municipal code.

RF-3. Shade violates several requirements in PC Resolution 05-08, an amendment to the Metlox Master Use Permit, Resolution 5770. Additionally, the hotel violates requirements in its annual entertainment permit. Violations having the most impact on the neighborhood include failure to soundproof the Zinc bar (as required by Resolution 05-08), operation past closing times, and amplification of audio entertainment beyond permitted levels.

RF-4. The governing use permits, Resolution 5770 and amendment PC Resolution 05-08 contain ambiguities and loopholes, which enable circumvention of regulations intended to have Shade operate as a first-class hotel, with the primary purposes to attract visitors downtown for support of existing businesses, as well as providing residents with a special place for celebrations. Instead, in violation of use permit conditions, Shade principally promotes its Zinc bar as a nightclub, to the detriment of the hotel itself and the adjoining neighborhood.

RF-5. Staff has conducted an acoustic engineering analysis to evaluate possible physical means to mitigate Shade noise. Some noise sources, such as disturbances at the entrance to the hotel, require administrative means to mitigate. Although conditions below mandate certain physical and administrative mitigation measures, they alone cannot guarantee appropriate alleviation of disturbances in the residential neighborhood. Furthermore, effectiveness of the conditional mitigation means cannot be fully demonstrated, until tested throughout summer. As result, staff will use the annual entertainment permit as a supplemental tool to provide the necessary flexibility to require compliance with Chapter 5.48, Noise Regulations, of the Manhattan Beach municipal code, by imposing new conditions, or by modifying existing conditions, regardless of whether those conditions or modifications relate to entertainment per se.

CONDITIONS.

RC-1. Terms in these conditions have the following definitions:

Closed or closing-time. Area vacated by all customers and alcohol sales ended, including room service and in-room service.

Special event. An event under contract that has exclusive use of one or more venues. All special events shall pay charges consistent with those for other special events of similar nature and scheduling. Contractual events that only use a portion of a venue will end at that venue closing time. Special events cannot exceed the closing times of the terrace or skydeck

More definitions TBD.

RC-2. Hours of operation.

Hours of Alcohol Service: Restricted to Venues Identified below; No Other Spaces Permitted.		
Venue/Event/Services	Closing Time	End Alcohol Service Before Closing, Minutes
Zinc bar and lounge, Fri-Sat	11 AM-11 PM (desired,) plus special events	30
Zinc bar and lounge, Sun-Thu	11-AM-11 PM, plus Special Events	30
Terrace	11 AM-11 PM; no exceptions	30
Conference (Green) Room(s)	Special events only; no public	Same as special events
Penthouses, two	Special events only ; no public	Same as special events
Skydeck	11-AM-10 PM; no exceptions	60
Courtyard	Special events only; no public	Same as special events
Special Events	Midnight, except terrace & skydeck	60
Room Service, Alcohol	Same as Zinc	0; Zinc closing time

The hotel shall provide no alcohol services, other than those stated in the above table

RC-3. Space Layouts.

- RC3-1. Except for special events, all alcohol-serving venues shall maintain tables, chairs, and other furnishings as typical of daily hotel operations, for which the Fire Department will determine maximum occupancies. Arrangements shall expedite food consumption.
- RC3-2. The terrace shall maintain the same seating and table arrangements for both routine hotel use and special events.
- RC3-3. For special events, the applicant shall provide event space layouts representative of typical serving table and seating arrangements, for which the fire department will determine maximum occupancies. Arrangements shall expedite food consumption.
- RC3-4. Under no circumstances shall the lobby area east of the Zinc retractable wall be used for general public or event alcohol consumption.

RC-4. Ingress-Egress Control

- RC4-1. The general Metlox Plaza valet service shall move from the Shade entrance
- RC4-2. (From entertainment permit.) After 10:00 PM on Thursday, Friday and Saturday, on holidays, and after all special events at the hotel during any day of the week, the pick-up for cars that are parked in the valet area shall be inside of the Metlox parking structure on the P-1, first level, near the escalators to minimize noise and disturbance to the neighbors. Pickup by the valet shall also not be permitted at the hotel entrance off Valley Drive at these times. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian access ways free and accessible to the general public, subject to approval of the Director of Community Development. No permanent signage or structures shall be allowed. Any temporary signage or structures shall only be placed from 9:00 PM to midnight. The hours and days may be administratively modified in the annual entertainment permit to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.

- RC4-3. Taxi pickups and drop-offs at the Shade entrance shall be prohibited after 10 PM
- RC4-4. The city shall prohibit taxi pickups and drop-offs on Valley Dr after 10 PM
- RC4-5. The Zinc queue shall move to the west-side Shade door. The hotel shall obtain an encroachment permit to align the queue on the Metlox Plaza, along the hotel west wall.
- RC4-6. (From entertainment permit) After 10: 00 PM on Thursday, Friday and Saturday, on holidays, and after all special events at the hotel during any day of the week, guests and patrons at the hotel facilities shall use the rear door (west), opening on to the Metlox Plaza, to exit the hotel, and not the front entry door that exits onto Valley Drive. The employees shall close and monitor the front entry door as required to ensure patrons exit out the side door while maintaining required emergency access. Employees shall also remind the patrons as they depart to be respectful of the neighbors and to minimize noise and disturbance. The hours and days may be administratively modified in the annual entertainment permit to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.
- RC4-7. (From entertainment permit) The hotel shall ensure that their employees, contract employees, contractors servicing events, and all others providing services to the Hotel shall not park on the public streets, in the residential areas or in Parking Lot 8 (the lot in the median of Valley and Ardmore). All parking shall be on the Metlox site or in other public parking structures such as Lot 3.
- RC4-8. (From entertainment permit) The drop off driving lane, in front of the hotel off Valley, including the area at Valley and "12th Walk" by the bollards shall remain open, unobstructed and free of vehicles at all times.
- RC4-9. (From entertainment permit) Any large transportation such as buses, shuttles, or recreational vehicles shall not use the hotel drop off area, but shall load and unload off of Morningside Drive or 13th Street. The vehicles shall observe and comply with all parking regulations in these areas.
- RC4-10. (From entertainment permit) The hotel shall work cooperatively with the management company, landlord, any security personnel and the City to ensure that hotel facility patrons are not gathering in the Town Square and public areas outside of the hotel and disturbing the neighbors after the hotel public areas close. The doorman or other employee shall ensure that patrons do not leave the premises with alcoholic beverages.

RC5. Entertainment and Noise Regulations

- RC5-1. (From entertainment permit) The volume of music, entertainment, group singing or amplification may not be audible outside of the hotel facilities to the extent that lyrics, melodies or rhythms can be distinguishable in the residential neighborhood, or that it disturbs surrounding tenants. Except for special events in their wholly-contracted venues, after 10:00 PM, only "background" type of music is allowed. For special events, entertainment must stop one hour before closing time.
- RC5-2. (From entertainment permit) A maximum of 6 performers shall be permitted at any time that amplified sound is incorporated. Entertainment that would result in dancing which exceeds the capacity of the 15' by 20' dance floor shall be prohibited.

Entertainment and dancing shall conform to a submitted floor plan. All doors leading to the outside shall remain closed at all times.

- RC5-3. (From Reso 08-05 and entertainment permit) The Zinc bar and lounge shall be soundproofed, including door, wall, and ceiling treatments, with a retractable wall between the lobby and the bar area, to a sound transmission coefficient of STC-50. The retractable wall shall be deployed whenever entertainment provided, or no later than 7 PM each day, until close. The STC-50 sound transmission coefficient shall be demonstrated in accordance with the ASTM-E-90 standard, in all directions, including up, but not westerly. A drawing of the Zinc soundproofing by a certified architect shall be submitted as part of the amended application and will become part of this use permit.
- RC5-4. The terrace shall be soundproofed TBD (enclose upper tier, Acousti-Curtain™ material, wall and ceiling treatments?)
- RC5-5. The courtyard shall be soundproofed TBD (sound absorbing lattice over unenclosed top, Acousti-Curtain™ material?)
- RC5-6. The skydeck shall be soundproofed TBD (remove west glass windscreen?)
- RC5-7. The 12th St extension between the Petros building and Shade shall be soundproofed TBD (15-foot wall, wall treatments on Petros north wall?)
- RC5-8. If the penthouses used for special events, the balcony doors shall be closed and locked after 10 PM
- RC5-9. Any violations of Chapter 5.48, Noise Regulations, of the Manhattan Beach municipal code, as they pertain to the subject location, or of the City of Manhattan Beach, may result in the revocation and/or modification of the subject Master Use Permit. The Director of Community Development, by means of the annual use permit, may administratively require compliance by all Metlox tenants with Chapter 5.48, Noise Regulations, of the Manhattan Beach municipal code, by imposing new conditions, or by modifying existing conditions in the Master Use Permit and its amendments, regardless of whether those conditions or modifications relate to entertainment per se.

RCS-6 Food and alcohol services.

- RC6-1. In addition to room service, which includes the penthouses, breakfast and lunch may be served in the Zinc bar, lounge, terrace, conference room(s) and skydeck, but except for special occasions, not the courtyard. Small plates may be served in all venues authorized for alcohol service.
- RC6-2. Gross sales of alcohol shall not exceed gross sales of food on a quarterly basis. The hotel owner, under penalty of perjury, will annually provide certification of compliance, which will include a letter addressed to the city from a certified public accountant. If the owner cannot provide an annual certification, then the planning commission shall consider the matter for resolution in a public hearing. At any time, the city can require an independent audit of compliance, paid for by the hotel. Additionally, the city will conduct an independent audit, if within a thirty-day time period, residents or property owners representing more than 50% of single family residences east of Ardmore Ave, within the 500-foot radius map from the hotel, petition the city for such an audit, paid for by the hotel. The said residents or property owners can petition no more than once every other year, starting from date of resolution of the previous audit, or approval of this resolution, whichever later.

RC-7. Promotion and Advertising.

- RC7-1. (From entertainment permit) All hotel marketing, advertising, and promotions shall be limited to attracting potential hotel guests and event planners. The Zinc Lobby Bar and Skydeck will not be marketed to the general public as separate hospitality attractions.
- RC7-2. Shade Hotel shall not post any drink or food menus, or any drink or food signage outside of the hotel.

Angela Soo

From: Laurie B. Jester
Sent: Wednesday, October 28, 2009 11:18 AM
To: List - Planning Commission
Cc: Richard Thompson; Angela Soo
Subject: FW: Shade entertainment permit

Planning Commission-
Martha requested this- I wanted to forward to all of you

Angela-
15 copies for PC tonight- thanks

Laurie Jester
310-802-5510

From: Laurie B. Jester
Sent: Wednesday, October 28, 2009 10:48 AM
To: Martha Andreani
Subject: Shade entertainment permit

Martha-
Got your call- here is the latest- I will call you later-
Thanks Laurie

Laurie B. Jester
Planning Manager
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Ljester@citymb.info
Phone: 310-802-5510
Fax: 310-802-5501



City of Manhattan Beach

Community Development

Phone: (310) 802-5500

FAX: (310) 802-5501

TDD: (310) 546-3501

APPROVAL OF TEMPORARY USE PERMIT

The Department of Community Development has approved a Temporary Use Permit application pursuant to Section 10.84.110 of the Manhattan Beach Municipal Code to allow Special Events at the **Shade Hotel 1221 N Valley Drive**. The attached list of special events identifies the approved dates and times. The approval is in accordance with the Master Use Permit approval for the site

Hours Allowed for Special Events (Birthdays, Weddings, Holiday Parties only)-

Interior Courtyard (to north of Lobby Zinc Bar) and Interior Lobby Zinc Bar and Green Room (2nd floor Meeting Room)- 11:00 pm Sunday –Thursday, 12:00 midnight Friday and Saturday. (Alcohol service to stop ½ hour prior)

Zinc Terrace (outdoor south side of Zinc Bar)- 11:00 PM daily

Rooftop Deck (Skydeck)- 10:00 pm daily (Alcohol service to stop 1 hour prior)

Approval Findings:

1. The proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan and the provisions of this title; and
2. That approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare, since no events will exceed the hours allowed by the Master Use Permit, the Entertainment Permit Conditions will be complied with.

Conditions of Approval:

Special Conditions

1. The roofdeck may not be open past 10:00 PM and all alcohol service must stop at 9:00 PM.
2. The outside Zinc Terrace may not be open past 11:00 PM.
3. The applicant must comply with all Entertainment Permit and Master Use Permit conditions.

If you have any questions, please contact Laurie B. Jester, the project planner at (310) 802-5510 or by email at ljester@citymb.info.

RICHARD THOMPSON

Director of Community Development

Date: October 9, 2009

SHADE Hotel
1221 N. Valley Drive

Date	Event	# of People	Time	Other	Date Added
October					
10/9/2009	Laureano Surprise Birthday	50	7:00 - 12:00 AM	Over at 11, out by 12	
10/10/2009	Defilippi Wedding Reception	50	6:00 - 12:00 AM	Over at 11, out by 12	
10/10/2009	Nader-Mamey Wedding Reception	200	4:00 - 10:00 PM		
10/17/2009	Koo-Shim Ceremony & Reception	110	12:00 - 5:00 PM		
10/21/2009	MBYP Wine Tasting	150	6:00 - 9:30 PM		
10/22/2009	Mattel Cocktail Party	100	5:30 - 7:00 PM		
10/25/2009	Mattox/Rollins Ceremony & Reception	120	12:00 - 5:00 PM		
10/31/2009	Shade Halloween Event	200	6:00 - 12:00 AM		
November					
11/15/2009	Ezra-Kralis Wedding Reception	100	5:30 - 10:30 PM		
11/18/2009	MB Open House - Shade 4th Anniversary	200	6:00 - 11:00 PM		
December					
12/10/2009	Thornton-Tomasetti Holiday Party	90	*6:00 - 10:30 PM	*Tentative	
12/11/2009	Skechers Holiday Party	250	7:00 - 11:00 PM	Over at 11, out by 12	
12/12/2009	Waters & Kraus Holiday Party	120	6:00PM - 12:00 AM		
12/14/2009	Alfaparf Event	200	7:30 - 10:00 PM		
12/31/2009	Shade New Years Eve Event	200	7-12:00 AM		

10/9/09



Address: 1221 Valley

CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
1400 HIGHLAND AVENUE 310/802-5500

CITY USE ONLY
Date Received _____
Received by _____
Fee _____
Receipt No. _____
Trans. Code # 4110

GROUP ENTERTAINMENT PERMIT APPLICATION (ORDINANCE 1775)

APPLICATION MUST BE SUBMITTED AT LEAST 21 DAYS PRIOR TO COMMENCEMENT

Class I Permit: Group entertainment, either incidental with the business being conducted there, or to conduct group entertainment for which admission is charged. Limited to legally operated businesses which are open continuously such as restaurants, hotels, cafeterias, bars, and fast food establishments. Permits shall be valid for a period of one year, or until March 1, and renewable annually on March 1.

The function of this permit is to regulate gatherings of persons in order to preserve and protect the public's peace, health, safety, morals and welfare.

APPLICANT INFORMATION

Applicant(s) Name Michael ZISLIS of Behalf of Shade Hotel
Applicant Address 1221 North Valley Drive, M.B. CA 90266
Phone # (310) 546-4995 Driver Lic.# 01146027 Birthdate 10/13/65
Applicant(s) Employed By Shade Hotel
Business Address 1221 North Valley Drive Phone 310-546-4995

ACTIVITY INFORMATION

Complete Description of Proposed Activity Events ie: wedding, conferences, birthday holiday parties etc
NO LIVE BANDS OVER 6 PIECES EXCEPT MARIACHI'S
Date(s) of Activity throughout the year Time & Duration Per use permit & attached conditions

Describe Type of Music & Amplification

Expected Maximum Attendance X Alcohol Served? Yes No

Will Persons Under 21 Years of Age be Present? Yes No

Alcohol Sold? Yes No If Yes, ABC License # 47418408

Activity Supervisor(s) Jolyce Vought Address 1221 N. Valley Ave Phone # 310 698-5557

11-25-2001
H/001-01232976

based on occupancy

LOCATION OF ACTIVITY

Address of Activity: 1221 N. Valley

Type of Business: Hotel

Occupant Capacity of Building: Dancing 75 Dining 300

Gross Floor Area _____ Floor Area For Dancing _____ Dining see chart

Parking: Number of On-Site Parking Spaces 50 valet

Nearby Parking Facility 460 Metrox Number of Spaces

Other

Description of Neighborhood: _____ Commercial _____ Residential

Mixed Commercial & Residential Uses Nearby

_____ Other

APPLICANT STATEMENT

Have you or anyone else listed on this application ever been convicted of committing a violation of law, except any offense resulting only in a fine or bail forfeiture of less than one hundred fifty dollars (\$150)? Yes _____ No

Have you ever obtained or sought to obtain an Entertainment Permit in the past? Yes No If yes, was the issued Permit ever denied or revoked? Yes _____ No

I, the applicant(s) for this Permit shall be responsible for the monitoring of this activity and agree to conduct the activity subject to the conditions listed below and, further, understand that violation of any condition, State Laws or City Ordinances will result in immediate termination of this Permit, upon due process.

I understand that a copy of this Permit must be available during the activity and subject to inspection upon request of any City official.

APPLICANT'S SIGNATURE

DATE

Nov 27, 2008

APPROVED BY AUTHORIZED SIGNATURES BELOW, SUBJECT TO THE CONDITIONS BELOW:

Code Enforcement:

Date: 12-19-08

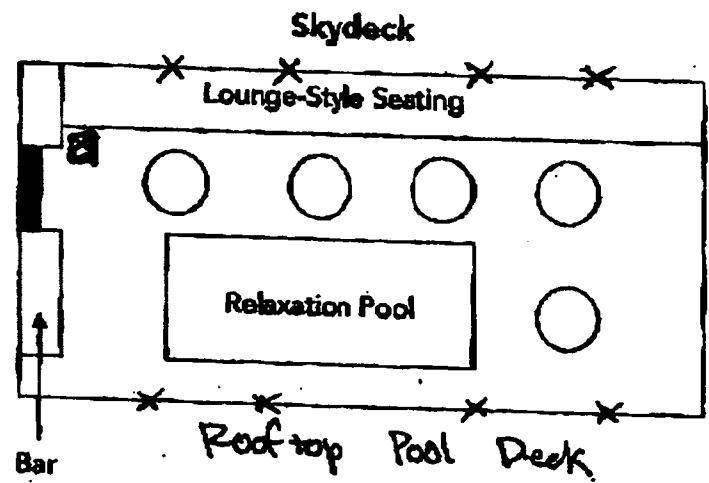
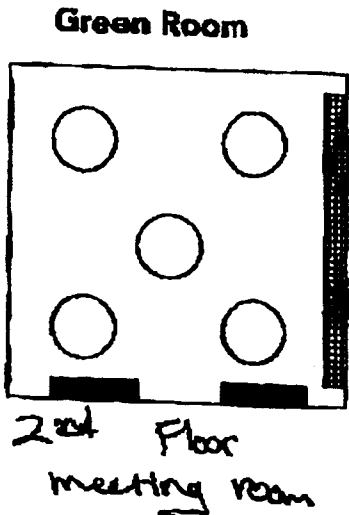
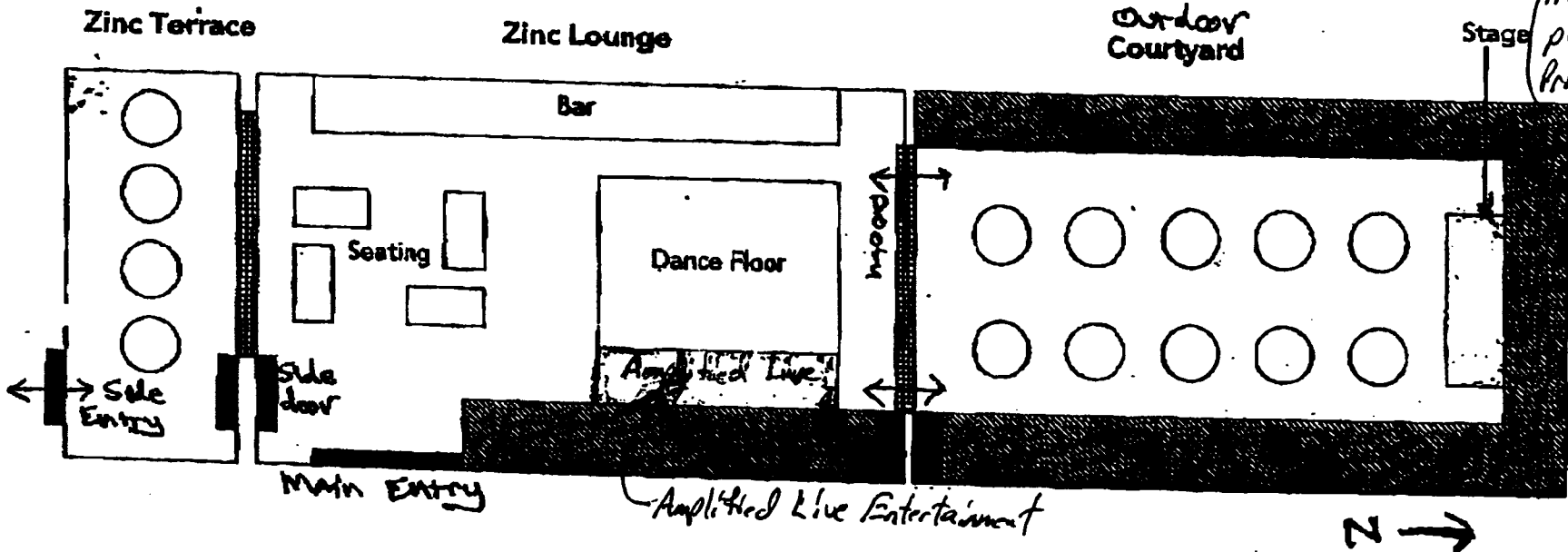
Planning Division:

Date: 12/19/08

Director of Community Development:

Date: 12-19-08

Event Space Layout



LEGEND

- = 12 foot rounds
- = Doorways
- = Walkways
- = Sliding Glass Doors

This is not to scale

X = SMALL SPEAKERS (LIGHT DAYTIME MUSIC)

☒ = ENTERTAINMENT SPEAKER (ON-GROUND FACING WEST)

DECEMBER

MAY 09 2006

By _____

MANHATTAN BEACH

09/04/2006 10:10 310-802-9901

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Police Department:

1. The Police Department shall be notified of entertainment scheduling in writing at least 7 days prior to any event. Notification shall include operating details pertaining to type of entertainment, including size and location of performance or dance area, size of band and number of performers, hours, type of instruments, type of music, type and location of amplification, speakers and other equipment, volume of amplification, type of event, number of guests, location of event, food service, supervision, hours of event including setup and breakdown, and type of transportation for guests. Contact Traffic Sgt. Office at 310-802-5156.
2. The applicant shall comply with all of the requirements of Chapter 5.48 Noise Regulations, of the City of Manhattan Beach Municipal Code. (See Sections 5.48.140 and 5.48.160 for specific noise standard regulations)

Fire Department:

Required occupancy loads shall not be exceeded and exits shall remain unobstructed. The exact numbers are required to be posted on the site:

- Roof Deck - 92
- Lobby Bar (Zinc Lounge) - 159
- Patio to south of Zinc Lounge- 47
- Courtyard Area - 151
- Conference Room - 44

Community Development Department:

1. Hours for special events with entertainment or amplified sound shall be limited to Sunday-Thursday: 10 AM to 11:00 PM, and Friday-Saturday: 10 AM to Midnight.
2. Entertainment or amplified sound shall be in conformance with the attached approved floor plan including: the designated amplified live entertainment/performer location adjacent to the east wall of the Zinc Lounge, and a dance floor area approximately 15' by 20' adjacent to the performer area. Entertainment or amplified sound is prohibited on the Zinc Terrace. The outdoor courtyard to the north of the Zinc Lounge and the Skydeck may only be used for live entertainment, amplified sound or events with a 14 day prior notice and approval of the City.
3. A maximum of 6 performers shall be permitted at any time that amplified sound is incorporated. Entertainment that would result in dancing which exceeds the capacity of the 15' by 20' dance floor shall be prohibited. Entertainment and dancing shall conform to the attached floor plan. All doors leading to the outside shall remain closed at all times.

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

5. The volume of the music, entertainment, or amplification may not be audible outside of the hotel facilities to the extent that it disturbs the neighbors and surrounding tenants. After 10:00 PM only "background" type of music is allowed.
6. The hotel shall ensure that their employees, contract employees, contractors servicing events, and all others providing services to the Hotel shall not park on the public streets, in the residential areas or in Parking Lot 8 (the lot in the median of Valley and Ardmore). All parking shall be on the Metlox site or in other public parking structures such as Lot 3.
7. The drop off driving lane, in front of the hotel off Valley, including the area at Valley and "12th Walk" by the bollards shall remain open, unobstructed and free of vehicles at all times.
8. Any large transportation such as buses, shuttles, or recreational vehicles shall not use the hotel drop off area, but shall load and unload off of Morningside Drive or 13th Street. The vehicles shall observe and comply with all parking regulations in these areas.
9. After 10:00 PM on Friday and Saturday and after all special events at the hotel during any day of the week, the pick up for cars that are parked in the valet area shall be inside of the Metlox parking structure on the P-1, first level, near the escalators to minimize noise and disturbance to the neighbors. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. Valet pickup shall not be permitted at the hotel entrance off Valley Drive at these times. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian accessways free and accessible to the general public, subject to approval of the Director of Community Development. No permanent signage or structures shall be allowed. Any temporary signage or structures shall only be placed from 9:00 PM to midnight.
10. After 10:00 PM on Friday and Saturday and after all special events at the hotel during any day of the week, guests and patrons at the hotel facilities shall use the side door (south) located off the Zinc Terrace to exit the hotel, and not the front entry door that exits onto Valley Drive. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. The employees shall close and monitor the front entry door as required to ensure patrons exit out the side door while maintaining required emergency access. Employees shall also remind the patrons as they depart to be respectful of the neighbors and to minimize noise and disturbance.

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

11. The applicant shall work cooperatively with the Management Co, landlord, any security personnel and the City to ensure that hotel facility patrons are not gathering in the Town Square and public areas outside of the hotel and disturbing the neighbors after the hotel public areas close. The doorman or other employee shall ensure that patrons do not leave the premises with alcoholic beverages.(See Use Permit conditions below for hours)
12. If the Director of Community Development deems it necessary for noise attenuation, glass panels shall be installed east side of the Skydeck to fill in the void between the stairwell and the end of the patio.
13. A renewal application shall be submitted prior to March 1st.

Use Permit Description and Conditions:

1. Hotel operations and accessory services to the hotel shall be in conformance with City Council Resolution No. 5770, and PC Resolution No. 05-08, as outlined in the conditions below. Note that condition 34 of PC Resolution No 05-08 allows review annually to determine if it is appropriate to renew the Entertainment Permit, deny the permit, or modify the conditions of approval.
2. All events are limited to a maximum of 99 people unless prior written approval through a Temporary Use Permit is provided by the Director of Community Development. Event size may not exceed the maximum occupancy as allowed by the Building or Fire Code limits.
3. Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City.
4. Noise mitigation strategies shall be implemented including; door, wall and ceiling treatments, as required within the Zinc Lounge and Zinc Terrace area in order to mitigate noise. The Zinc Lounge shall demonstrate that the insulation achieves an STC (Sound Transmission Code) rating of 50 to mute the noise.
5. Hours of operation for the hotel public areas shall be as follows:
Lobby Zinc Bar (including outdoor Zinc Terrace to south of Lounge)- 11:00 PM daily
Interior Outdoor Courtyard (to north of Zinc lounge) and Green Room (2nd floor meeting room) when used for special events and functions- 11:00 pm Sunday -Thursday, 12:00 midnight Friday and Saturday
Skydeck (Rooftop Deck)- 10:00 pm daily (Alcohol service to stop at 9:00 P.M.)
6. The primary use and purpose of Shade Hotel is and will continue to be to serve the community as a hotel offering

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

first-class accommodations to visitors. All services of the hotel will be focused directly on its guests and event clients.

7. The availability of the Inn for special events shall not be marketed as the primary use.
8. The Hotel may provide full liquor service throughout the Hotel, including self-service in room "mini-bars", and a portable bar for special events. The service of alcohol at the Hotel shall be in conjunction with food. The hours of food service, and the associated alcohol service, shall be consistent with the project description, which is generally breakfast, evening appetizers and for special events. The Sale of alcoholic beverages for consumption off-premise is not approved with this Master Use Permit. This approval shall operate within all applicable State, County and City regulations governing the sale of alcohol prior to the start of business operations. Any violation of the regulations of the Department of Alcohol and Beverage Control as they pertain to the subject location, or of the City of Manhattan Beach, as they relate to the sale of alcohol, may result in the revocation and/or modification of the subject Master Use Permit.
9. All hotel marketing, advertising, and promotions shall be limited to attracting potential hotel guests and event planners. The Zinc Lobby Bar and Skydeck will not be marketed to the general public as separate hospitality attractions.
10. The Wine Bar (Zinc lounge) shall limit its food menu to appetizers or "small plates" (or "tapas"), to qualify as a "bonafide eating place" as required by the ABC Type 47 license. The Wine Bar shall provide food service but shall not operate as a full scale "restaurant". Breakfast may be served daily in the Living Room (Zinc lounge), Porch (Zinc Terrace), and/or Courtyard.
11. Shade Hotel shall not post any drink or food menus, or any drink or food signage outside of the hotel.
12. The Skydeck shall stop regular alcohol service no later than 9:00 p.m. daily.

Public Works Department:

1. The Entertainment event and hotel operators shall ensure attendees do not litter adjacent public property, including but not limited to the sidewalk, street, Metlox Town Square and all other public areas at Metlox. The hotel operators shall police and promptly clean up all areas with any litter and spills after all events. Public Works shall bill applicant for any event related clean-up costs.

Risk Manager:

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

1. The applicant shall comply with all required Insurance and Indemnity requirements of the City of Manhattan Beach as detailed below.

INSURANCE AND INDEMNITY

1.1 Commencement of Work

SHADE HOTEL shall not commence work under this Agreement until it has obtained Owner approved insurance. Before beginning work hereunder, during the entire period of this Agreement, or any extensions hereto, and for periods after the end of this Agreement as indicated below, SHADE HOTEL must have and maintain in place, all of the insurance coverages required in this Article 1. SHADE HOTELs insurance shall comply with all items specified by this Agreement. Any subcontractors shall be subject to all of the requirements of this Article 1 and SHADE HOTEL shall be responsible to obtain evidence of insurance from each subcontractor and provide it to the Owner before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less than A-:VII unless otherwise approved by CITY.

1.2 Coverages, Limits and Policy Requirements

SHADE HOTEL shall maintain the types of coverages and limits indicated below:

(1) **COMMERCIAL GENERAL LIABILITY INSURANCE** - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, or the equivalent thereof with no special limitations affecting CITY. The limit for all coverages under this policy shall be no less than one million dollars (\$1,000,000.00) per occurrence. Owner, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by Owner. In the event the

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

(2) **COMMERCIAL AUTO LIABILITY INSURANCE** - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93 or the equivalent thereof including Symbol 1 (any auto) with no special limitations affecting the Owner. The limit for bodily injury and property damage liability shall be no less than one million dollars (\$1,000,000) per accident. Owner, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by the Owner. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

(3) **WORKERS' COMPENSATION INSURANCE** - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. The minimum coverage limits for said insurance shall be no less than one million dollars (\$1,000,000) per claim.

(4) **PROFESSIONAL ERRORS & OMISSIONS** - a policy with minimum limits of one million dollars (\$1,000,000) per claim and aggregate. This policy shall be issued by an insurance company which is qualified to do business in the State of California and contain a clause that the policy may not be canceled until thirty (30) days written notice of cancellation is mailed to the Owner.

1.3 Additional Requirements

The procuring of such required policies of insurance shall not

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

be construed to limit SHADE HOTEL's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against the Owner for payment of premiums or other amounts with respect thereto.

The Owner shall notify SHADE HOTEL in writing of changes in the insurance requirements. If SHADE HOTEL does not deposit copies of acceptable insurance policies with the Owner incorporating such changes within sixty (60) days of receipt of such notice, SHADE HOTEL shall be deemed in default hereunder.

Any deductibles or self-insured retentions must be declared to and approved by the Owner. Any deductible exceeding \$100,000 shall be subject to the following changes:

(1) either the insurer shall eliminate, or reduce, such deductibles or self-insured retentions with respect to the Owner and its officials, employees and agents (with additional premium, if any, to be paid by SHADE HOTEL) ; or

(2) SHADE HOTEL shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

1.4 Verification of Compliance

SHADE HOTEL shall furnish the Owner with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by the Owner before work commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, SHADE HOTEL shall deliver to the Owner a binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefore, or accompanied by other proof of payment satisfactory to the Owner.

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

1.5 Indemnification

1.5.1 SHADE HOTEL agrees to indemnify, defend, and hold harmless the Owner and its elective or appointive boards, officers, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, the Agreement by SHADE HOTEL, SHADE HOTEL's agents, officers, employees, subcontractors, or independent contractor(s) hired by SHADE HOTEL. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by SHADE HOTEL.

1.5.2 The Owner shall cause the Contractor to indemnify and hold harmless SHADE HOTEL from and against any and all claims, demands, suits, damages, including consequential damages and damages resulting from personal injury or property damage, costs, expenses and fees that are asserted against the SHADE HOTEL and that arise out of or result from wrongful acts or omissions by the Contractor in performing the Work.

PLEASE HELP US STOP SHADE DISTURBANCES!

I'm Nate Hubbard, 1300 N Ardmore, and am encouraging residents to testify at the planning commission hearing, next Wednesday, October 28, regarding Shade. They applied to extend the Zinc bar hours to midnight Friday and Saturday, from the current 11 PM. Shade doesn't pay much attention to the 11 PM closing now. If given midnight, will they go until 1 AM? We have a way to make them stop at the closing hour, whether 11 PM or midnight.

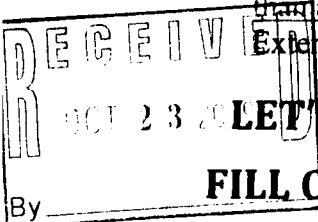
MAIL YOUR FORM TODAY!

A small group of us work together on Shade disturbances, and we need your help. We have enclosed a form for you to express your opinion to the city on key issues, with a stamped envelope addressed to the staff planner, Laurie Jester, for you to fill out and mail. At a minimum, please do that for us. Better yet, please testify next Wednesday, October 28. Your presence will have ten times the positive effect on the planning commissioners than the form.

We oppose extension of hours, but recognize the city might approve them. As a backup, we propose an option that will greatly throttle down the Shade bar scene, regardless of whether the planning commission approves or denies the extended hours. Your form mailed to the city will help convince the commissioners to impose our conditions on Shade, such as requiring tables and chairs maintained on the south terrace, to prevent it from filling with wall-to-wall drinkers. The back side of your form lists the conditions we want imposed on Shade.

To assist you in filling out the form, and hopefully to testify October 28, we summarize the significant issues that create the Shade noise disturbances degrading our neighborhood:

- Since the hotel started operating in November 2005, the police have received 97 calls for disturbances, averaging two a month, but have never issued a citation to Shade. The city will cite barking dogs, but has chosen to let Shade continue the disturbances.
- The municipal code prohibits anyone from continuing to make noise, in an adjoining neighborhood, that disturbs the peace and quiet, or discomforts and annoys "any reasonable person of normal sensitiveness." (Full text of §5.48.140 on back of this flier.)
- On July 31, ten residents filed a complaint, requesting that the city stop Shade from violating the above noise ordinance. The city says the residents' filing does not qualify as a complaint
- The Shade use permit has a requirement that Zinc must have a retractable wall between the bar area and the lobby, and soundproofing to reduce noise by 50 dB, or a factor of 100,000. If Shade complied, the neighborhood would never hear music, voices or laughter from Zinc.
- The city has chosen not to enforce the above use permit requirement. Why? Who knows?
- In December 2008, for the entertainment permit, the fire department over doubled the allowed occupancies in the Zinc bar (77 to 159) and on the skydeck (45 to 92), from their calculation made in October 2008, just two months earlier. How did their analyses change?
- The ABC alcohol licenses prohibit Shade from selling more alcoholic beverages than food, on a quarterly basis. Shade provides free breakfasts to guests, has approximately 15 people for lunch and serves only appetizers in the evening. Do you believe Shade sells more food than alcohol? Mr Mike Zislis says they do, but admitted difficulty in hitting the 50% target. Extending Zinc hours for hundreds of drinkers will make compliance more questionable.



LET'S STOP SHADE FROM DISTURBING OUR NEIGHBORHOOD

FILL OUT YOUR FORM! MAIL IT NOW! TESTIFY OCTOBER 28!

MB MUNICIPAL CODE §5.48.140, NOISE DISTURBANCES

Boxed text and bolding emphasis added

The Shade disturbances in the residential neighborhood involve several key standards listed in the Noise Disturbances statute below, such as: No. 5 Proximity to sleeping facilities, No.8 Time of night noise occurs, No. 10 Recurrent and constant and No. 12 Weekend and holiday occurrence.

As result, that significantly lowers the threshold for Shade noise to become a disturbance that violates the municipal code.

5.48.140 Noise disturbances.

A. Notwithstanding any other provisions of this chapter and in addition thereto, **it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness.** The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

1. The level of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level and intensity of the background noise if any;
5. The proximity of the noise to residential sleeping facilities;
6. The nature and zoning of the area within which the noise emanates;
7. The density of the inhabitation of the area within which the noise emanates;
8. The time of the day and night the noise occurs;
9. The duration of the noise;
10. Whether the noise is recurrent, intermittent or constant;
11. Whether the noise is produced by a commercial or noncommercial entity;
12. Whether the noise occurs on a weekday, weekend, or holiday.

Are you a “reasonable person of normal sensitiveness”? Then you qualify to be discomforted and annoyed by Shade noise disturbances.

B. The City may issue a citation against the person, persons, or entity responsible for the noise including, but not limited to, the property owner or business operator on whose premises the noise originates.

(§ 6, Ord. 1957, eff. December 5, 1996).

RESIDENT OPINION ON SHADE HOURS EXTENSION

Print Name	Signature
Print Name	Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at _____
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes No I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes No I/We oppose any extension of Shade hours for alcohol consumption

Yes No **I/We want the city to answer the following questions.**
The city cites barking dogs. Having received 97 calls regarding Shade disturbances, why has the city never cited the hotel for creating in our neighborhood noise disturbances that violate the municipal code?

Yes No Why has the city never enforced the section in the Shade use permit that requires the Zinc bar to have a retractable wall between the bar area and the lobby, and to have soundproofing installed in the bar?

Yes No What was the difference between the analyses performed by the fire department, when they over doubled the occupancy of the Zinc bar and the Skydeck, from October 2008 to December 2008, two months later?

Check this item on conditions, only if you feel comfortable with it; otherwise, leave blank

Yes No Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!

RESIDENTS REQUIREMENTS FOR SHADE USE CONDITIONS

NOTE: DOES NOT APPLY IF ITEM NOT CHECKED ON FORM, FIRST PAGE

(Partial list of higher priority conditions. Complete listing provided in filing, 23 Oct 2009)

Assumptions and Definitions.

Assumption 1. The city will enforce the requirement in PC Resolution 05-08 that the Zinc bar must have a retractable wall between it and the lobby, and that the bar area complies with a sound transmission coefficient of STC-50 outside its walls and ceiling.

Assumption 2. The terrace, skydeck, and courtyard will comply with sound reduction requirements, to-be-determined, from the Behrens acoustic engineer report.

Closed or closing-time definition. Area vacated by all customers and alcohol sales ended, including room service and in-room service.

Special event definition. An event under contract that has exclusive use of one or more venues. Contractual events that use only a portion of a venue will end at that venue closing time. Special events cannot exceed the closing times of the terrace or skydeck.

Hours of Alcohol Service: Restricted to Venues Identified below; No Other Spaces Permitted.

Venue/Event/Services	Closing Time	End Alcohol Service Before Closing, Minutes
Zinc bar and lounge, Fri-Sat	11 PM desired, plus special events	30
Zinc bar and lounge, Sun-Thu	11 PM, plus Special Events	30
Terrace	11 PM; no exceptions	30
Conference (Green) Room(s)	Special events only; no public	Same as special events
Penthouses, two	Special events only ; no public	Same as special events
Skydeck	10 PM; no exceptions	60
Courtyard	Special events only; no public	Same as special events
Special Events	Midnight, except terrace & skydeck	60
Room Service, Alcohol	Same as Zinc	0; Zinc closing time

The hotel shall provide no alcohol services other than stated in the above table.

Space Layouts.

- Except for special events, all alcohol-serving venues shall maintain tables, chairs, and other furnishings as typical of daily hotel operations, for which the Fire Department will determine maximum occupancies. Arrangements shall expedite food consumption.
- For special events, the applicant shall provide event space layouts representative of typical serving table and seating arrangements, for which the fire department will determine maximum occupancies. Arrangements shall expedite food consumption.
- Under no circumstances shall the lobby area east of the Zinc retractable wall be used for general public or event alcohol consumption.

Ingress-Egress Control.

- Metlox Plaza valet service shall move from the Shade entrance
- After 10 PM, Shade valet for drop-off and pickup shall move to the Metlox valet location
- Taxi pickups and drop-offs at the Shade entrance shall be prohibited after 10 PM
- The city shall prohibit taxi pickups and drop-offs on Valley Dr after 10 PM
- The Zinc queue shall move to the west-side Shade door. The hotel shall obtain an encroachment permit to align the queue on the Metlox Plaza, along the hotel west wall.

RESIDENT OPINION ON SHADE HOURS EXTENSION

Dorothy Menestre II
Print Name

Dorothy Menestre II
Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

516 12th St MB
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

Yes

No

I/We want the city to answer the following questions.

The city cites barking dogs. Having received 97 calls regarding Shade disturbances, why has the city never cited the hotel for creating in our neighborhood noise disturbances that violate the municipal code?

Yes

No

Why has the city never enforced the section in the Shade use permit that requires the Zinc bar to have a retractable wall between the bar area and the lobby, and to have soundproofing installed in the bar?

Yes

No

What was the difference between the analyses performed by the fire department, when they over doubled the occupancy of the Zinc bar and the Skydeck, from October 2008 to December 2008, two months later?

Check this item on conditions, only if you feel comfortable with it; otherwise, leave blank

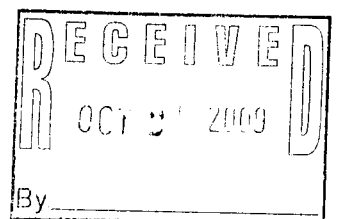
Yes

No

Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

Debra M. Taylor
Print Name

Debra M Taylor
Signature

Joseph Taylor
Print Name

Joseph Taylor
Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

520-12th Street
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

Yes

No

I/We want the city to answer the following questions.

The city cites barking dogs. Having received 97 calls regarding Shade disturbances, why has the city never cited the hotel for creating in our neighborhood noise disturbances that violate the municipal code?

Yes

No

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Yes

No

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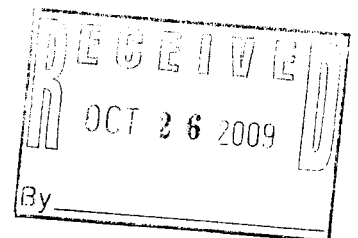
Yes

No

Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

Aksi Kikat _____ Aksi Kikat _____
 Print Name Signature

Maureen Kikut _____ Maureen Kikut _____
 Print Name Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 637 12th Street
 In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes No I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes No I/We oppose any extension of Shade hours for alcohol consumption

I/We want the city to answer the following questions.

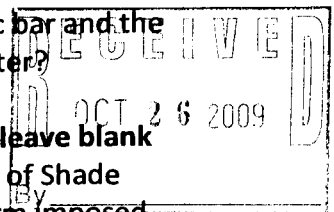
Yes No The city cites barking dogs. Having received 97 calls regarding Shade disturbances, why has the city never cited the hotel for creating in our neighborhood noise disturbances that violate the municipal code?

Yes No Why has the city never enforced the section in the Shade use permit that requires the Zinc bar to have a retractable wall between the bar area and the lobby, and to have soundproofing installed in the bar?

Yes No What was the difference between the analyses performed by the fire department, when they over doubled the occupancy of the Zinc bar and the Skydeck, from October 2008 to December 2008, two months later?

Check this item on conditions, only if you feel comfortable with it; otherwise, leave blank

Yes No Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.



**PLEASE WRITE
 COMMENTS IN
 IN BLANK AREA**

The "sand bagging" and lack of enforcement of the city municipal codes have an appearance of a conflict of interest between the residents and the city officials. You are elected representatives.

PLEASE REMEMBER TO MAIL YOUR FORM!

Do the right thing, enforce the city codes on behalf of the residents. Aksi Kikut

RESIDENT OPINION ON SHADE HOURS EXTENSION

GERTRUDE R. MILLER

Print Name

Gertrude R. Miller

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/~~We~~ reside and/or own the property at
In Manhattan Beach, California,

533 13th St. Manhattan Beach, Ca. 90266
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/~~We~~ are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

No

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Yes

No

I/~~We~~ oppose any extension of Shade hours for alcohol consumption

Yes

No

I/~~We~~ want the city to answer the following questions.

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No

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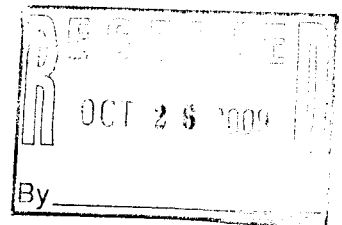
Yes

No

Regardless of whether the city denies or approves an extension of Shade hours, I/~~We~~ want the conditions included on the back of this form imposed on the Shade use permit.

**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

Helmut C Dolley Helmut C Dolley
 Print Name Signature

PATRICIA J. DOLLEY Patricia J. Dolley
 Print Name Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

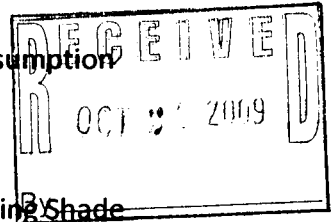
I/We reside and/or own the property at 601-13th St -
 In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes No I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes No I/We oppose any extension of Shade hours for alcohol consumption



I/We want the city to answer the following questions.

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Yes No Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

PLEASE WRITE COMMENTS IN IN BLANK AREA

Under California and Local Statute, Shade is a public. Demand is hereby made that the City ABATE this nuisance

PLEASE REMEMBER TO MAIL YOUR FORM!

According to Law, As the owner of the property the city has a duty

RESIDENT OPINION ON SHADE HOURS EXTENSION

John Li

Print Name

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at

532 15th Street

In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

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Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

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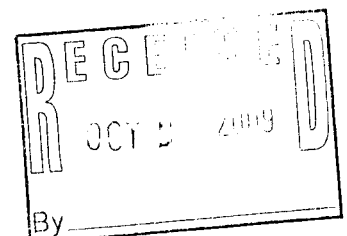
Yes

No

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**PLEASE WRITE
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PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

KEVIN KASEFF

Print Name

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at

608 15th ST.

In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

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Yes

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Yes

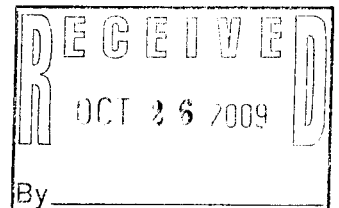
No

Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

WE NEVER HEAR SHADE AND THEY ARE A GREAT ADDITION TO OUR CITY.

**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

MIREL JACOBI

Print Name

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We ~~reside and/or~~ own the property at
In Manhattan Beach, California,

1116 ARMORE AVE
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

No

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Yes

No

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Yes

No

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Yes

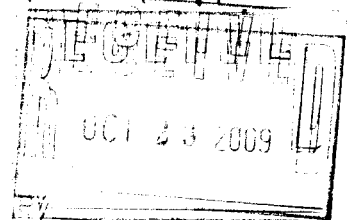
No

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**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

I AM TIRED OF NOISY, DRUNK PEOPLE
GOING BY MY HOUSE LATE AT NIGHT

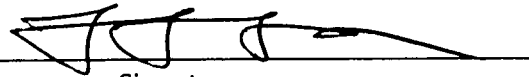
PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

JEFF DOOLEY

Print Name



Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

1140 N. AROMORE AVE
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank



Yes



No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.



Yes



No

I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.



Yes



No

I/We oppose any extension of Shade hours for alcohol consumption



Yes



No

I/We want the city to answer the following questions.

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Yes



No

Why has the city never enforced the section in the Shade use permit that requires the Zinc bar to have a retractable wall between the bar area and the lobby, and to have soundproofing installed in the bar?



Yes



No

What was the difference between the analyses performed by the fire department, when they over doubled the occupancy of the Zinc bar and the Skydeck, from October 2008 to December 2008, two months later?

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Yes

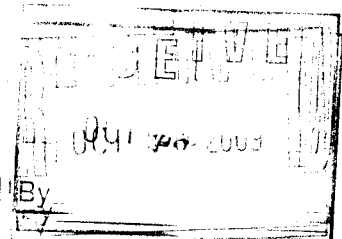


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RESIDENT OPINION ON SHADE HOURS EXTENSION

Nancy Gallombardo
Print Name

[Signature]
Signature

DANIEL G. GALLOMBARO
Print Name

[Signature]
Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

1144 N. ARDMORE AVE
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

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Yes

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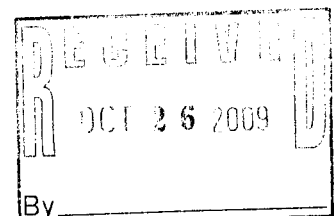
Yes

No

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RESIDENT OPINION ON SHADE HOURS EXTENSION

Michael Lloyd
Print Name

Michael Lloyd
Signature

Linda Bell
Print Name

Linda Bell
Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

1304 FARMORE AVE.
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank



Yes



No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.



Yes



No

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Yes



No

I/We oppose any extension of Shade hours for alcohol consumption



Yes



No

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Yes



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Yes



No

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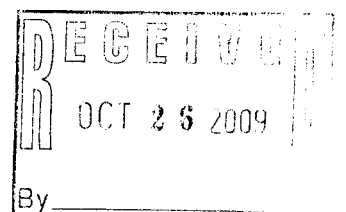


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**PLEASE WRITE
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RESIDENT OPINION ON SHADE HOURS EXTENSION

STEVEN B. WIBLE Star B. Wible

Print Name

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 1212 N. ARDMORE AVE

In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

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Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

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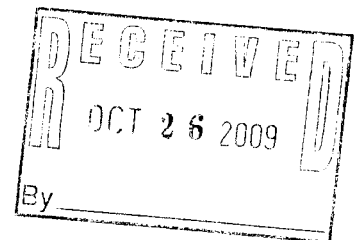
Yes

No

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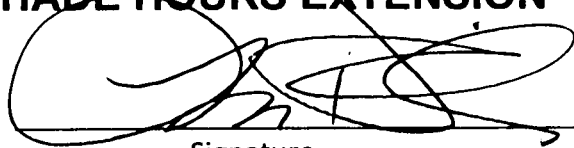
PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

CEITH D. WIBLE

Print Name



Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at

1212 N. ARDMORE AVE.

In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

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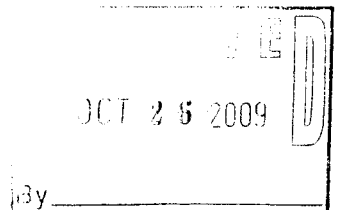
Yes

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**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

Nathaniel Hubbard

Print Name

Signature

Stephanie Hubbard

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

1300 N. Ardenmore Ave, MB
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

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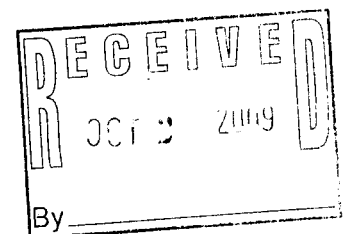
Yes

No

Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

Paul Monchove

Print Name

Paul Monchove

Signature

Laura Monchove

Print Name

Laura Monchove

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

134 N. Avenue, M.B. CA 9026
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

Yes

No

I/We want the city to answer the following questions.

The city cites barking dogs. Having received 97 calls regarding Shade disturbances, why has the city never cited the hotel for creating in our neighborhood noise disturbances that violate the municipal code?

Yes

No

Why has the city never enforced the section in the Shade use permit that requires the Zinc bar to have a retractable wall between the bar area and the lobby, and to have soundproofing installed in the bar?

Yes

No

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Check this item on conditions, only if you feel comfortable with it; otherwise, leave blank

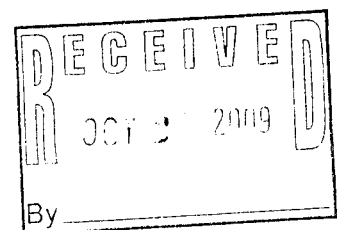
Yes

No

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RESIDENT OPINION ON SHADE HOURS EXTENSION

TJ MORGAN

Print Name

TJ Morgan

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 1140 FISHER AVE

In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

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Yes

No

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Yes

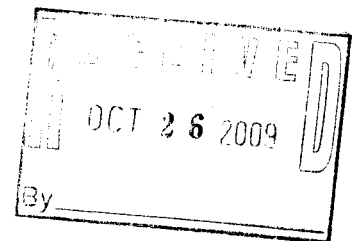
No

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**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

THERE IS NO REASON WHY SHADE SHOULD STOP
SERVING ~~ALCOHOL~~ AT 11:00, WHEN STATE LAW
SPECIFIES A 2:00 AM CUTOFF!

PLEASE REMEMBER TO MAIL YOUR FORM!



RESIDENT OPINION ON SHADE HOURS EXTENSION

JOHN KRIZMAN [Signature]
Print Name Signature

Print Name Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 1700 FISHER AVE
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes No I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes No I/We oppose any extension of Shade hours for alcohol consumption

I/We want the city to answer the following questions.

Yes No The city cites barking dogs. Having received 97 calls regarding Shade disturbances, why has the city never cited the hotel for creating in our neighborhood noise disturbances that violate the municipal code?

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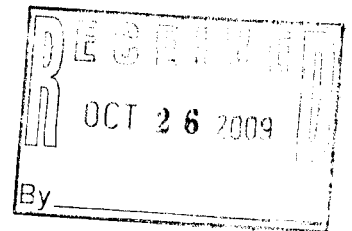
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Yes No Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

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RESIDENT OPINION ON SHADE HOURS EXTENSION

Mike Marino _____
Print Name Signature

Cheryl Marino _____
Print Name Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 1016 Fisher Manhattan Beach
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes No I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes No I/We oppose any extension of Shade hours for alcohol consumption

Yes No I/We want the city to answer the following questions.
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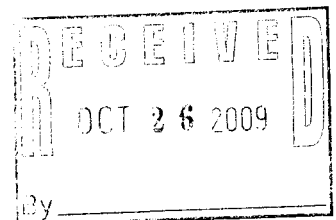
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RESIDENT OPINION ON SHADE HOURS EXTENSION

BOB ECKERT

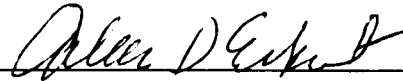
Print Name



Signature

ARLEEN ECKERT

Print Name



Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 1147 HIGHVIEW
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

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Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

Yes

No

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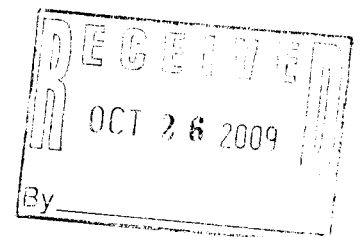
Yes

No

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RESIDENT OPINION ON SHADE HOURS EXTENSION

James L. Heath

Print Name

James L. Heath

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at _____
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

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Yes

No

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Yes

No

I/We oppose any extension of Shade hours for alcohol consumption

Yes

No

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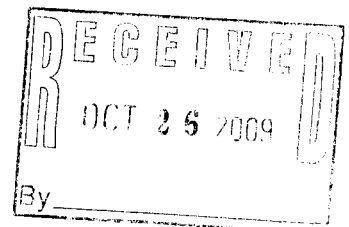
Yes

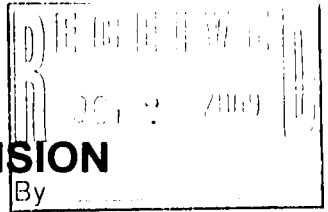
No

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RESIDENT OPINION ON SHADE HOURS EXTENSION

Jackie Cole Weiser
Print Name

Jackie Cole Weiser
Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at _____
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes No I/We are "reasonable persons of normal sensitiveness", and state that music, voice and other sounds from Shade causes us discomfort and annoyance, likewise late at night, on a continual basis, and primarily on weekends.

Yes No I/We oppose any extension of Shade hours for alcohol consumption

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Check this item on conditions, only if you feel comfortable with it; otherwise, leave blank

Yes No Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

PLEASE WRITE COMMENTS IN IN BLANK AREA

My husband, child and I can barely get 6 hours of sleep a night before waking up and going to school and work on the nights the bars are opened

PLEASE REMEMBER TO MAIL YOUR FORM!

LATE

ATTACHMENTS

FOR

5/12/10

P.C. MEETING

RESIDENT OPINION ON SHADE HOURS EXTENSION

Victoria Muir

Print Name

Victoria Muir

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 1316 Ardmore
In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

~~I/We~~ are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

Yes

No

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Yes

No

~~I/We~~ oppose any extension of Shade hours for alcohol consumption

I/We want the city to answer the following questions.

Yes

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Yes

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Yes

No

What was the difference between the analyses performed by the fire department, when they over doubled the occupancy of the Zinc bar and the Skydeck, from October 2008 to December 2008, two months later?

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Yes

No

Regardless of whether the city denies or approves an extension of Shade hours, I/we want the conditions included on the back of this form imposed on the Shade use permit.

The never heard any noise or disturbance from Shades - They should be able to stay open later than 11:00 p.m. I'm proud of our beautiful hotel & bar - V. Muir

PLEASE WRITE COMMENTS IN

IN BLANK AREA

RECEIVED
NOV 2 2009
By _____

PLEASE REMEMBER TO MAIL YOUR FORM!

RESIDENT OPINION ON SHADE HOURS EXTENSION

Preston Davis
Print Name

[Signature]
Signature

JUDY DAVIS
Print Name

Judy Davis
Signature

1208 ARDMORE
PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at
In Manhattan Beach, California,

1208 Ardmore
Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

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Yes

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Yes

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Yes

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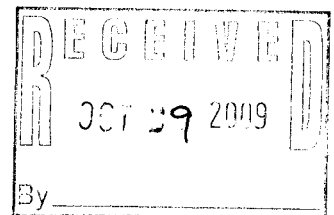
Yes

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RESIDENT OPINION ON SHADE HOURS EXTENSION

Lori Vella _____
Print Name Signature

Print Name Signature

I/We reside and/or own the property at 612 13th St.
In Manhattan Beach, California, Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes No I/We are "reasonable persons of normal sensitiveness", and state that the Shade Hotel disturbs the peace and quiet of our neighborhood with music, voice and other sounds, late at night, on a continual basis and on weekends.

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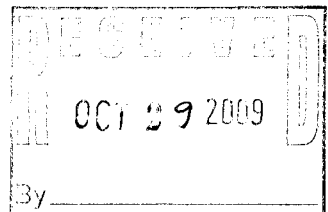
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RESIDENT OPINION ON SHADE HOURS EXTENSION

TERESA CHO

Print Name

Teresa Cho

Signature

Print Name

Signature

PLEASE! ONLY SHADE NEIGHBORHOOD ADDRESS BELOW

I/We reside and/or own the property at 528 12th St.

In Manhattan Beach, California,

Shade Neighborhood Address: Number and Street

Check each item below, only if you feel comfortable with it; otherwise, leave blank

Yes

No

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No

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Yes

No

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**PLEASE WRITE
COMMENTS IN
IN BLANK AREA**

PLEASE REMEMBER TO MAIL YOUR FORM!

NOV 6 2009
By _____

Laurie Jester

Laurie B. Jester

From: Kathleen Paralusz [paralusz@hotmail.com]
Sent: Monday, May 10, 2010 3:29 PM
To: Laurie B. Jester
Subject: FW: Shade Negotiation Summary

File
 5/12/10 PG

Laurie,

Can you please share this with the other commissioners (excepting Fasola)? Think it may be helpful. My goal on Wednesday is to keep the meeting moving as efficiently as possible.

thanks
 Kathleen

From: dmcphersonla@gmail.com
To: paralusz@hotmail.com
Subject: Shade Negotiation Summary
Date: Mon, 10 May 2010 12:53:38 -0700

Kathleen,

Early last November, we requested staff to act as mediator for negotiations between the neighbors and Shade. Laurie Jester responded that Shade must lead the effort.

During Thanksgiving week, Mr Zislis conducted a meeting at Shade, in which he outlined concepts for noise mitigation, which included the front-door vestibule, partial enclosure of the terrace, and raised glass windscreens on the skydeck.

In early December, as a starting point for negotiations, we sent the commission, staff and Mr. Zislis a draft of the proposed neighborhood use permit, essentially the same as the updated version recently submitted to the commission for the Wednesday May 12 hearing.

Subsequent to sending the draft use permit, starting in early March, we submitted to the commission five papers of evidence addressing various issues in the Shade application. Each time, we reiterated that the draft use permit represented the neighborhood position on mitigation measures. Mr Zislis has acknowledged to the commission that he received our submissions.

On March 23, Mr Zislis conducted a second meeting to present additional information on the three mitigation measures listed above. In exchange, he required the following extensions of alcohol service hours:

One hour increase for the Zinc bar and terrace, from 11 PM to midnight on Fridays and Saturdays

A half-hour increase for the Zinc bar and terrace on Thursday, from 11 PM to 11:30 PM

One hour increase for the skydeck, from 10 PM to 11 PM on Fridays and Saturdays

Extended Zinc bar operation for fifteen registered guest to 1 AM every day.

For all venues, extended cutoff of alcohol service to fifteen minutes before close. The current use permit requires cutoff 30 minutes before close of the Zinc bar and terrace, and one-hour before close of the skydeck.

These time extensions required by Mr Zislis fall outside the parameters set by the commission at the October hearing, namely one hour Friday and Saturdays for the Zinc bar and terrace. As result, at the March 23 meeting, Nate Hubbard stated he would have to coordinate Mr Zislis's proposal with the neighborhood.

05/10/2010

Mr. Zislis grew visibly angry, asserting that the meeting had the objective for Hubbard to agree with the proposed mitigation measures and time extensions.

Mr Don Behrens, of the acoustics contractor Behrens Associates, also present at the meeting, observed that the neighborhood needed to compromise to obtain noise mitigation, because Mr Zislis did not have to install any of the proposed measures.

Subsequently, as stated in the staff report, Hubbard conducted an extensive, decidedly objective, poll of the neighborhood, going door to door in some cases. For those neighbors who responded, they overwhelmingly rejected the Shade proposal.

In response to the poll results, Mr Zislis emailed Hubbard, asking whether the neighborhood would support the variance for the raised glass windscreens on the skydeck. Hubbard answered, nay.

Mr Zislis had six months to respond to the proposed neighborhood use permit. As designated leader of the negotiation process, apparently, he chose not to address the neighborhood desires. Presumably, he will not accept many conditions in the proposed use permit, including the Zinc-lobby wall, full-enclosure of the terrace after 9 PM, reduced bar occupancies and definition of closing time.

I do not share correspondence between me and city officials, conducted outside the municipal email system. I will, however, orally relate to Nate Hubbard a summary of my response to your question.

Thanks for asking it,

Don

P.S. We have not addressed Mr. Zislis's request to keep the Zinc bar open for registered guests until 1 AM every day, because the staff report does not mention it. I have yet to receive a reply from ABC Long Beach, regarding whether the Type 47 general license would also require the bar to serve the general public as well. In my opinion, if the city granted Shade a property right to keep the bar open to 1 AM for registered guests, then the ABC would additionally require Shade to also serve the general public until 1 AM every day.

From: Kathleen Paralusz [mailto:paralusz@hotmail.com]

Sent: Monday, May 10, 2010 08:51

To: dmcphersonla@gmail.com

Subject: RE: Executive Summary and Proposed Neighborhood Use Permit, Shade May 12 Hearing

Don,

Thank you and Nate for spearheading the neighbors' efforts to resolve these issues. One question I have is what the results were of discussions with Mr. Zislis on these conditions. As you may recall, some commissioners were reluctant to vote in favor of the resolution unless and until the neighbors and Mr. Zislis came to a mutually acceptable understanding.

thanks and see you Wednesday,
Kathleen Paralusz

05/10/2010

From: dmcphersonla@gmail.com
To: dlessler@citymb.info; jfasola@citymb.info; kparalusz@citymb.info; mandreani@citymb.info; sseville-jones@citymb.info
CC: mward@citymb.info; ntell@citymb.info; pcohen@citymb.info; rmontgomery@citymb.info; wpowell@citymb.info; rthompson@citymb.info; bmoe@citymb.info; RWadden@citymb.info; ruyeda@citymb.info; bklatt@citymb.info; ljester@citymb.info; LTamura@citymb.info
Subject: Executive Summary and Proposed Neighborhood Use Permit, Shade May 12 Hearing
Date: Sat, 8 May 2010 09:06:15 -0700

Planning Commission
City of Manhattan Beach
Via Email

Commissioners, for the record,

Subject: Executive Summary and Proposed Neighborhood Use Permit, Shade Hearing May 12

On behalf of Nate Hubbard, facilitator for the Shade neighborhood, I provide the executive summary for the May 12 hearing. The second attachment provides the neighborhood proposed use permit.

We request that at the hearing, the commission consider the conditions in the proposed use permit on an item-by-item basis.

We additionally request that the commission directs staff to provide a revised entertainment permit for inclusion in the resolution.

The 2002 Metlox master use permit stipulated that the hotel file annually for an entertainment permit. The city had the intention that this annual permit would provide staff flexibility in managing Shade, without having to modify the difficult to change use permit.

Subsequently, staff included in the entertainment permit considerable detail regarding use permit conditions that regulate Shade operations. This material needs updating in accordance with revisions approved by the commission in the use permit.

The input covered in this email does not include any response to the staff report for the May 12 hearing.

Apologies for the huge amount of evidence submitted to substantiate the terms and conditions in the proposed neighborhood use permit. The Shade application encompasses incredible complexity that defies simplification.

Don McPherson
1014 1st St, Manhattan Beach CA 90266
310.487.0383
dmcphersonla@gmail.com

Copy: Former 2005 councilmembers and commissioners, Residents, Strumwasser & Woocher

05/10/2010

I am aiming for the April 28th Planning Commission meeting, and I would need to have agreement on issues by April 9th to allow adequate time for the required notice to the paper.

Thanks Laurie

General-

1. 10 db reduction in noise reduces the noise level in half
2. A minimum of 5 dB reduction in noise is considered to be significant
3. Front entrance vestibule anticipated to reduce noise levels 6 to 8 dB at the residences
4. Moveable panel enclosures on Terrace and portable barrier in front of entry queue by Terrace anticipated to reduce noise levels at the residences 6 to 10 dB if Terrace is left open for the top 8 feet, and 8 to 10 dB if Terrace is fully enclosed
5. Rooftop deck panels on the north, east and south sides, 6 feet above the height of the drink service roof, anticipated to reduce noise levels at the residences a bit over 2 to 5 dB. Panels of this height would require a Variance for height.
6. Single event noises (microphone, yells, whoops) are a concern
7. Taxis circling, slowing down, stopping and picking up people on Valley after 10:00 PM is a concern
8. Loud groups of people waiting for taxis on Valley after 10:00 PM is a concern
9. Valet pick up is located downstairs inside the garage and the podium is by Petros after 10:00 PM on Friday and Saturday (except as noted in #10 below)
10. Registered Hotel Guests only-arriving or leaving anytime day or night use the front entrance for valet or self-park
11. Event date, time, location and number of people will be posted on the Shade website or other neighbor notification
12. Doors have been disabled so not able to remain ~~open in~~ "locked" in open position
13. Background music in any location to not be audible to the extent that is disturbs the neighbor's residences
14. Music piped in through house system only. Dj's, live music or anything other than background music only in Lounge with special permit
15. Definition of "Closing time" - Everyone to be out of the Shade except staff (see proposed exception for Zinc Lounge below).
16. Special events subject to conditions in the Entertainment Permit.

Zinc Lounge and Terrace to south-

Everyday

1. 9:00 PM- front entrance doors (east side) "locked" and only operable through interlock/double door vestibule where hotel clerk will allow entry or registered guest can pass with a room key. Only one set of doors may be open at any time (needs to meet Fire and Building existing requirements)
2. 9:00 PM- Terrace moveable panel enclosures to be closed and portable barrier in front of Terrace side entry queue to be in place
3. 9:00 PM- Nana wall on south side of Lounge separating Lounge and Terrace closed
4. 9:00 PM- All exterior doors closed
5. Nana wall systems on both the north and south sides of Lounge to be closed when live music in Lounge ~~or Courtyard~~
6. Nana wall system on the south side of Lounge to be closed when live music in Courtyard

Distributed
5/12/10 PC
meeting

Friday and Saturday

1. 11:00 PM- Music off on Terrace
2. 11:30 PM- Last call for drinks, lights turned up and music off in Zinc Lounge also
3. 11:40 PM- Last drink served
4. 12:00 midnight- Closing time- Everyone to be out of the Shade public areas except staff. Exception for Registered guests with a key, maximum of 15 in the Zinc Lounge in the north half of the room.
5. 1:00 AM- All guests to leave public areas.

Thursday

1. 10:30 PM- Music off on Terrace
2. 11:00 PM- Terrace closed and customers to move inside or leave ~~(we did not discuss earlier backup times for last call ect. — if the Terrace customers move to the Lounge inside this could lead to the occupant load set by Fire being exceeded)~~
3. 11:00 PM- Last call for drinks, lights turned up and music off in Zinc Lounge also
4. 11:10- Last drink served
5. 11:30 - Closing time- Everyone to be out of the Shade public areas except staff. Exception for Registered guests with a key, maximum of 15 in the Zinc Lounge in the north half of the room.
6. 12:30 AM- All guests to leave public areas.

Sunday through Wednesday

1. 10:00 PM- Music off and last call for drinks on Terrace
2. 10:30 PM- Terrace closed
3. 10:30 PM- Last call for drinks, lights turned up and music off in Zinc Lounge also
4. 10:40 PM- Last drink served
5. 11:00 PM- Closing time- Everyone to be out of the Shade public areas except staff. Exception for Registered guests with a key, maximum of 15 in the Zinc Lounge in the north half of the room.
6. 12:00 midnight- All guests to leave public areas.

Skydeck

Everyday

1. Music and all sound piped in through house system only, no dj's, no live music, background music only
2. 9:00 PM- No further use of microphone
3. 10:30 PM- Last call for drinks, lights turned up and music off
4. 11:00 PM- Closed

Courtyard

Everyday

1. 12:00 midnight Closed- (area for special event use only)
2. Special events in Courtyard, harp, violin and similar instruments- no live bands.
3. Octoberfest only, live band- 4 to 8 PM , one Sunday annually
4. Chamber, Open House, and other occasional Community events with local school bands, choir or similar

From: GFOConnor@aol.com
Date: Wed, 12 May 2010 18:19:22 -0400
Subject: Shade Hotel
To: kparalusz@citymb.info

File -
5/12/10 PC..

Dear Kathleen:

I've reviewed much, if not all of the information that's before you on the Shade Hotel matter, have watched the Planning Commission's prior deliberations on the matter, and finally just wanted to briefly offer some personal observations.

As he who was a founding member (and Steering Committee member) of Residents Against Rezoning, the organization formed to defeat the 2000 ballot initiative to limit the use of the Metlox property, I have significant knowledge and recollection of the community process and overall effort to control the development of this property, and the resultant community compromises and commitments -- including the assurances made by the City itself. These compromises and commitments all centered around assurances that any development would generally be in keeping with our much-heralded 'small town feel'.

As he who chaired the 2005 Planning Commission that modified Shade Hotel's Master Use Permit, I've recently reviewed, repeatedly and in excruciating detail, the videotape of that May 25, 2005 meeting, where it could not be more evident that the Commission was made to believe, by staff, that ABC licensing parameters limited the Commission to a choice of either disallowing alcohol from the in-room service bars of hotel guests or making alcohol available to the general public throughout the hotel. It was repeatedly questioned and reaffirmed by staff that no other ABC licensing option was available. Yet, based on the submissions presently before you from Don McPherson, we now understand this was not the case at all, and that an ABC license **did** (and does) exist that would have permitted the exact uses as originally prescribed by the lengthy, detailed, and very thorough public process.

Thus, today I find myself deeply troubled by the challenges we currently face -- just ten years after the community compromises and City assurances that ultimately allowed for the defeat of the ballot initiative that would have prohibited the entire Metlox development, and just five years after the City's erroneous granting of the wrong liquor license to the Shade Hotel -- a liquor license which has subsequently allowed a much broader use than originally prescribed by those very same community compromises and City assurances.

While we cannot turn back the hands of time, the City's decisions going forward must absolutely consider the measurable scope creep that has thereby incrementally occurred (be it the result of error or intention), and the resultant, widening gap between what was originally agreed upon (not just envisioned) by

the community, assured by the City ... and what we find ourselves dealing with today.

As always, I welcome any further dialogue on this matter, and greatly appreciate your continuing community service.

Gerry O'Connor
(310) 376-1547

From: Laurie B. Jester
Sent: Monday, May 10, 2010 5:18 PM
To: List - Planning Commission
Cc: Angela Soo
Subject: FW: Shade Negotiation Summary

FYI-
Jim Fasola will not be participating in the hearing.

Laurie B. Jester
Community Development Acting Director
P: (310) 802-5510
E: ljester@citymb.info

From: Kathleen Paralusz [mailto:paralusz@hotmail.com]
Sent: Monday, May 10, 2010 3:29 PM
To: Laurie B. Jester
Subject: FW: Shade Negotiation Summary

Laurie,

Can you please share this with the other commissioners (excepting Fasola)? Think it may be helpful. My goal on Wednesday is to keep the meeting moving as efficiently as possible.

thanks
Kathleen

From: dmcphersonla@gmail.com
To: paralusz@hotmail.com
Subject: Shade Negotiation Summary
Date: Mon, 10 May 2010 12:53:38 -0700

Kathleen,

Early last November, we requested staff to act as mediator for negotiations between the neighbors and Shade. Laurie Jester responded that Shade must lead the effort.

During Thanksgiving week, Mr Zislis conducted a meeting at Shade, in which he outlined concepts for noise mitigation, which included the front-door vestibule, partial enclosure of the terrace, and raised glass windscreens on the skydeck.

In early December, as a starting point for negotiations, we sent the commission, staff and Mr. Zislis a draft of the proposed neighborhood use permit, essentially the same as the updated version recently submitted to the commission for the Wednesday May 12 hearing.

Subsequent to sending the draft use permit, starting in early March, we submitted to the commission five papers of evidence addressing various issues in the Shade application. Each time, we reiterated that the draft use permit represented the neighborhood position on mitigation measures. Mr Zislis has acknowledged to the commission that he received our submissions.

On March 23, Mr Zislis conducted a second meeting to present additional information on the three mitigation measures listed above. In exchange, he required the following extensions of alcohol service hours:

- One hour increase for the Zinc bar and terrace, from 11 PM to midnight on Fridays and Saturdays
- A half-hour increase for the Zinc bar and terrace on Thursday, from 11 PM to 11:30 PM
- One hour increase for the skydeck, from 10 PM to 11 PM on Fridays and Saturdays
- Extended Zinc bar operation for fifteen registered guest to 1 AM every day.
- For all venues, extended cutoff of alcohol service to fifteen minutes before close. The current use permit requires cutoff 30 minutes before close of the Zinc bar and terrace, and one-hour before close of the skydeck.

These time extensions required by Mr Zislis fall outside the parameters set by the commission at the October hearing, namely one hour Friday and Saturdays for the Zinc bar and terrace. As result, at the March 23 meeting, Nate Hubbard stated he would have to coordinate Mr Zislis's proposal with the neighborhood.

Mr. Zislis grew visibly angry, asserting that the meeting had the objective for Hubbard to agree with the proposed mitigation measures and time extensions.

Mr Don Behrens, of the acoustics contractor Behrens Associates, also present at the meeting, observed that the neighborhood needed to compromise to obtain noise mitigation, because Mr Zislis did not have to install any of the proposed measures.

Subsequently, as stated in the staff report, Hubbard conducted an extensive, decidedly objective, poll of the neighborhood, going door to door in some cases. For those neighbors who responded, they overwhelmingly rejected the Shade proposal.

In response to the poll results, Mr Zislis emailed Hubbard, asking whether the neighborhood would support the variance for the raised glass windscreens on the skydeck. Hubbard answered, nay.

Mr Zislis had six months to respond to the proposed neighborhood use permit. As designated leader of the negotiation process, apparently, he chose not to address the neighborhood desires. Presumably, he will not accept many conditions in the proposed use permit, including the Zinc-lobby wall, full-enclosure of the terrace after 9 PM, reduced bar occupancies and definition of closing time.

I do not share correspondence between me and city officials, conducted outside the municipal email system. I will, however, orally relate to Nate Hubbard a summary of my response to your question.

Thanks for asking it,

Don

P.S. We have not addressed Mr. Zislis's request to keep the Zinc bar open for registered guests until 1 AM every day, because the staff report does not mention it. I have yet to receive a reply from ABC Long Beach, regarding whether the Type 47 general license would also require the bar to serve the general public as well. In my opinion, if the city granted Shade a property right to keep the bar open to 1 AM for registered guests, then the ABC would additionally require Shade to also serve the general public until 1 AM every day.

From: Kathleen Paralusz [mailto:paralusz@hotmail.com]

Sent: Monday, May 10, 2010 08:51

To: dmcphersonla@gmail.com

Subject: RE: Executive Summary and Proposed Neighborhood Use Permit, Shade May 12 Hearing

Don,

Thank you and Nate for spearheading the neighbors' efforts to resolve these issues. One question I have is what the results were of discussions with Mr. Zislis on these conditions. As you may recall, some commissioners were reluctant to vote in favor of the resolution unless and until the neighbors and Mr. Zislis came to a mutually acceptable understanding.

thanks and see you Wednesday,
Kathleen Paralusz

From: dmcphersonla@gmail.com

To: dlessner@citymb.info; jfasola@citymb.info; kparalusz@citymb.info; mandreani@citymb.info; sseville-jones@citymb.info

CC: mward@citymb.info; ntell@citymb.info; pcohen@citymb.info;

rmontgomery@citymb.info; wpowell@citymb.info; rthompson@citymb.info;

bmoe@citymb.info; RWadden@citymb.info; ruyeda@citymb.info;

bklatt@citymb.info; ljester@citymb.info; LTamura@citymb.info

Subject: Executive Summary and Proposed Neighborhood Use Permit, Shade May 12 Hearing

Date: Sat, 8 May 2010 09:06:15 -0700

Planning Commission

City of Manhattan Beach

Via Email

Commissioners, for the record,

Subject: Executive Summary and Proposed Neighborhood Use Permit, Shade Hearing
May 12

On behalf of Nate Hubbard, facilitator for the Shade neighborhood, I provide the executive summary for the May 12 hearing. The second attachment provides the neighborhood proposed use permit.

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Don McPherson

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310.487.0383

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Copy: Former 2005 councilmembers and commissioners, Residents, Strumwasser & Woocher

Laurie B. Jester

Letter to the Commission

To: Angela Soo
Subject: FW: Shade Hotel Hearing

File →
PC. 5/12/10



Shade

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Metlox-Shade

History.doc (49 K...

-----Original Message-----

From: Richard Thompson
Sent: Monday, May 10, 2010 1:35 PM
To: Laurie B. Jester
Subject: FW: Shade Hotel Hearing

Richard Thompson
Interim City Manager
P: (310) 802-5053
E: rthompson@citymb.info
City of Manhattan Beach, CA

-----Original Message-----

From: gosterhout@roadrunner.com [mailto:gosterhout@roadrunner.com]
Sent: Monday, May 10, 2010 12:49 PM
To: List - Planning Commission; Richard Thompson
Subject: Shade Hotel Hearing

Commissioners:

I have attached a draft statement I hope to read at Wednesday night's meeting, as well as a history/chronology of events surrounding the Metlox/Shade enterprise. I won't read the latter at the PC meeting, but I hope you read through it for I believe this delivers the more important impact of what I wish to convey. My statement merely attempts to bring the elements of the chronology together.

If after reading through this history you ultimately decide to not provide the relief requested by the neighborhood, I will be very interested in hearing your comments why.

Regards,

Gary Osterhout

Statement to Planning Commission - Shade Hotel

Gary Osterhout, 5/12/10

As part of the July 22, 2009 Staff Report, the applicant endorsed a Beach Reporter letter to editor that said the following:

“Zislis is too polite to say it to the neighborhood, but I’m not—You bought homes overlooking the downtown and that does not require the rest of us to protect the status quo of 10 years ago. You decided to live by a nightlife center and you need to accept the consequences of your decision.”

This is what brings me forward to the meeting tonight, as I find this position to be woefully insensitive to the extensive public process and community covenants that are a large part of the history of the Metlox Plaza in general and the Shade Hotel in particular. Although I do not live in the neighborhood to be personally affected by the current spillovers, I am deeply affected in another way. I was a member of the five-person Steering Committee of the Residents Against Rezoning (RAR), that helped guide the opposition to a local resolution on a June 2000 ballot, Measure 2000A, that would have rezoned this property as non-commercial. Through that opposition, our campaign, with full support of City Hall, continually promised and assured voters that the Metlox purchase was precisely to control development, and that the essential lodging component would be low impact with the intent to provide downtown with a unique element that would provide patronage for downtown businesses.

The families neighboring the Metlox center were the driving force behind an earlier citizens’ effort, the Residents for a Smalltown Downtown group, which in 1999 had gathered to formally oppose a large development, in particular a hotel, together with related meeting and eating facilities. Our RAR committee realized that it was essential to get the support of this group to be successful in allowing commercial development at Metlox. Ultimately Smalltown Downtown, realizing the community benefits of a controlled development and comforted by the low-impact assurances provided by our committee and the city, withdrew their opposition to development and, in fact, joined us in the effort to defeat the proposition. My opinion is if this group had decided to back those favoring Measure 2000A, we would not be discussing this issue today. So for someone to say the neighbors “need to accept the consequences of living by a nightlife center” is incorrect. These neighbors could have stopped commercial development entirely, but they had instead decided to trust the city’s representations.

After the measure was defeated, the developer’s proposal was approved through continued assurances of a low-impact lodging component. And, subsequently, the Metlox Plaza developer, the Shade Developer, and City Hall all formally bought off on the business-plan economics of a small-scale lodging component, even without food or a full liquor license as major components. This is all documented in the attached. This business’s perceived economic advantage was clearly that of a lodging component with proximity to the beach and downtown, not in its ability to attract a partying crowd. It was not intended to compete with other downtown businesses, nor even other Manhattan Beach hotels, nor intended to be anything more than a lodging component.

The Planning Commission has analyzed and weighted the noise study's objective standards perhaps too much. There is clearly a difference in standards as they apply to the Metlox Plaza and Shade Hotel, as these elements are far different than your normal commercial enterprises—both were developed only after extensive public participation, are built on city-owned land, and were allowed to be developed only after extensive assurances provided to the citizens and residents of Manhattan Beach. As such, the subjective, qualitative standards would seem the most important, and it is unarguable that current impacts significantly exceed those originally contemplated, and the necessary causal relationships between the impacts and the requested remedies is easily apparent.

To me, unless it could be proven by the applicant that the neighbor's concerns are totally unreasonable in respect to the initial usage intent, the fact that there is a significant number of adjacent residents complaining that there are noise disturbances from hotel uses that were never anticipated during the origins of this project should be sufficient reason to back the neighborhood's requests.

Since opening, Shade has received incremental concessions from the City beyond original representations, and often because the City is apparently not performing the due-diligence oversight or providing the neighborhood protections both expected and promised by the city. The neighbors should not suffer as a result of their trust. If there are profitability concerns or some city policy that has changed in respect to what we want Shade to be, then let's put that issue separately on the table so everyone can discuss that aspect independent of any other issue. I'm not certain what you can legally do in respect to reverting this enterprise to the lodging element of historical intent. But I believe you have a duty to firmly embrace that obligation, and make your decision accordingly. What hangs in the balance is the extent you would expect residents to trust the city or developers in allowing any future project.

Excerpts from Various Documents Pertaining to Inn/Shade Hotel

Submitted by Gary Osterhout

10/11/98 (Daily Breeze):

"Manhattan Beach is an extremely desirable and wonderful community that people really like and it's not served by a high-quality, bed-and-breakfast style inn," said Jonathan Tolkin. . . . Because the site sits at the crest of downtown, and ultimately will be what greets visitors as they arrive, its development is undergoing an unusual amount of public scrutiny. And its lodging component will be pivotal. Residents say they want it small, so it won't attract any more visitors to an already crowded downtown district." . . . Tolkin's team would build lodging with the feel of a bed-and-breakfast. . . . Tolkin said he interviewed seven companies before settling on Four Sisters Inns Inc. to run the bed-and-breakfast style inn. Four Sisters, a Monterey-based family company, owns nine small inns in California and Colorado, many in coastal towns. . .

Tolkin would build an inn with between 35 and 70 rooms, but Shelley Claudel, president of Four Sisters, said the number would more likely be between 35 and 40. Tolkin said it would not have a restaurant to avoid competing with existing restaurants downtown, but it might have a small spa. It also would feature larger conference rooms that could be used for meetings or catered events. None of the rooms would be suites.

.....

[Financial viability]: Anastasia Mann, chairman of Corniche Travel Management in West Hollywood, a company that oversees travel for major accounts like the Los Angeles Dodgers and Pepperdine University, said the Metlox site holds great potential for whoever builds a hotel there.

However, 35 rooms is too small to succeed financially because it won't attract a steady leisure or business clientele to make up for the times when residents' relatives don't use it, she said.

"It's going to be a place where people in the community have their in-laws stay when they don't have a spare bedroom," Mann said. "They have to look at 75 as small. I think 35 is truly too small."

John Kabassi, manager at the Seaview Inn at the Beach in Manhattan Beach, disagrees. Seaview, which might be the closest competition to the Metlox site on Highland Avenue at 34th Street, has just 15 rooms and is regularly booked, Kabassi said. He's looking forward to having a place to send the overflow.

12/16/98 (Daily Breeze): [Article on Tolkin Group awarded Metlox contract]:

The Tolkin Group's plan calls for a series of individual one- and two-story buildings. ...Adjacent to the tower is a 35-room bed-and-breakfast operated by Four Sisters Inns[.]

8/19/99 (Daily Breeze): [Article on council downsizing developer proposals]:

"I was lulled into complacency because I liked the Tolkins," Liza Levine Said. I missed a couple of meetings and it's gotten huge. I'm worried it will be like an Old Pasadena or Third Street Promenade." Added another original supporter, Stephanie Hubbard: "It's getting a little bigger than I hoped."

1999 (undated) – Flyer from "Residence for a Smalltown Downtown": "It is further proposed that any development on the Metlox site must NOT contain:

- A movie theater
- A hotel, together with related meeting and eating facilities
- Bars (whether free-standing or attached to restaurants)
- Chain Retail stores (e.g., Banana Republic; J. Crew; Restoration Hardware)

3/26/00 (Daily Breeze): [Letter to Editor by Helene Lohr, President, Residents Against Rezoning Manhattan Beach]:

"RAR does not endorse any particular project. We have, however, gathered the facts and we do know that the proposed project neither includes a "hotel" or "shopping mall." It does propose one- and two-story buildings with a low-impact, 40-room bed-and-breakfast[.]"

5/25/00 (Easy Reader): Letter to the Editor

"Dear ER:

I have worked downtown for the last 15 years. Downtown is more vibrant than it has ever been. We are blessed with best of two worlds, a small casual beach town with an urban feel -- a unique ambiance found nowhere else in Southern California. This experience can be further enhanced with the low impact commercial uses proposed by the Downtown Manhattan Beach Business and Professional Association.

.....

2) A small high quality inn is the lowest traffic generator of any of the proposed uses. An inn also brings visitors from all over the world, enhancing all of our cultural experiences.

....

I believe this is the right vision for our Downtown, not a parking lot and a small nature park for dogs and cats to relieve themselves. Please join me in voting NO on 2000A.

David Levin
Manhattan Beach”

2000 (no specific month/date), circular distributed by the Residents Against Rezoning:

“Both the inn and the office space will bring significant, low impact business to the project, as well as to the rest of downtown. . . . Speaking of our unique “small town downtown,” another local group, “Residents for a Smalltown Downtown,” feel that a small commercial development is the best use for this site.”

6/4/00 (Daily Breeze): [Article on Measure 2000A]:

A no vote would maintain current zoning, which could pave the way for a 60,000- to 90,000-square-foot plaza with shops, restaurants and a small inn.

February 2001 [Completion of EIR; from Christopher A. Joseph & Associates; <http://www.cajaeir.com/portfolio/civiccenter.html>]

“The Metlox project consisted of a mixed-use commercial development comprised of retail, restaurant, a 40-room Bed and Breakfast lodging component, and office uses. Some of the identified feature elements of the proposal included a Gateway Plaza, a Town Square, a Lookout Tower, outdoor dining, and a bed and breakfast style inn.”

2/14/2002 (Easy Reader): [Mayor Fahey’s “Vision for the City”]:

“[The Metlox site] is also an ideal location for a quaint inn.”

4/18/02 (Beach Reporter): [On the entire Metlox development]

“Restaurant use is limited to 8,000 square feet in a maximum of two restaurants with the dining area limited to a maximum of 6,400 square feet.”

7/17/02 (Beach Reporter): [City Council approves development agreement and ground lease; Shade not included as a restaurant.]:

“The council also agreed to evaluate design plans that would integrate a potential third floor to a portion of the bed-and-breakfast-style inn as long as the building remained under the 26-foot height limit.”

[Description of the current pool as a “Jacuzzi”]: “The council discussed various operational conditions for the inn and determined that it could have a roof-top Jacuzzi, but that it would have to close at 10 p.m., and that inn events that have more than 60 people would require a temporary use permit.”

[Limit on electronic music]: “The inn’s events would be limited to nonamplified live entertainment with a maximum of two entertainers.”

[*In respect to change from 2002 beer/wine license to full liquor license, later*]: “Two full liquor licenses would be allowed for the two restaurants, as well as beer and wine for inn guests.”

7/18/02 (Easy Reader):

“The council spent most of the discussion working out specific bugs on the bed-and-breakfast that will anchor the northeastern corner of the complex. After a public hearing and a presentation by the developer, the council decided to add language to the resolution that allows a Jacuzzi at the hotel and limited its use to [no] later than 10 p.m. . . . and restricts events of more than 60 people to a city permit process.”

1/28/04 (Beach Reporter):

“The Metlox developer presented a plan to lease a proposed bed and breakfast-style inn on the Metlox site to a longtime Manhattan Beach resident and restaurant proprietor, City Manager Geoff Dolan confirmed Tuesday.

Mike Zislis, owner of Rock’N Fish restaurant, said he signed a 55-year, \$6 million contract with developers the Tolkin Group last week. The Four Sisters Inns, a family-owned hotel management company based in Monterey, Calif., are the proposed operators of the inn.”

“The plans tentatively call for a private courtyard with a gazebo and chapel that Zislis said would cater to weddings. He also plans to add a computer center and a wine bar that would only be open at night.”

[*Business model aspects understood and accepted.*]: “The Tolkin Group had negotiated with another inn operator last year, which reportedly fell through because it wanted to add a third story to the structure to give some of the rooms an ocean view.” The city refused.

“Everything we see seems positive,” Dolan said, “The Four Sisters have a great reputation. Mike Zislis knows about hospitality, loves this community and knows lot of people in the community.”

2/26/04 (Beach Reporter):

[*Business Model Buy-off.*]: City Manager Geoff Dolan confirmed Monday that he signed off on the final contract for the inn, tentatively called “The Inn at Manhattan Beach,” which includes a 55-year lease between Zislis and developers The Tolkin Group, after the city’s financial adviser Kathe Head gave her nod of approval.

“Kathe was confident with the financial aspects of it,” Dolan said. “We visited some of the inns in Napa spent some time talking to the (inn operators) Four Sisters and felt good about it.”

“We’re excited,” Michael Tolkin said. “We think it’s a great marriage between the Four Sisters and Zislis. The Four Sisters have phenomenal expertise in the hotel industry. Zislis has phenomenal expertise in the service industry.”

9/22/04 (Daily Breeze):

[*In respect to M. Zislis’s current claim of competitiveness with other hotels*]: “[Zislis] says Shade’s cozy feel, luxurious amenities and proximity to the beach will distinguish it from the large LAX hotels.”

[*In respect to expectations that lodgers will patronize downtown businesses outside the hotel, and profitability advantages of Shade location*]: Manhattan Beach has other hotels including the Marriott Manhattan Beach and Holiday Inn Express. But the Shade would represent the first hotel in the fashionable downtown. And that is why the project is so significant, said Manhattan Beach City Manager Geoff Dolan. “It was important for us to have a lodging component there because the person who sleeps there will eat and shop in the downtown,” Dolan said. “Currently there’s no lodging in downtown Manhattan Beach. We have no lodging, no B&B’s, no nothing.”

“[Zislis] raised \$6 million for the hotel from 30 investors, including Skechers USA Inc. President Michael Greenberg. “Because of the numerous corporate executives who visit Manhattan Beach-Skechers, Shade would provide them with a nice place to stay nearby,” Greenberg said.”

5/25/05 Planning Commission Minutes:

“[Commissioner Simon] said that the [alcohol] usage would be restricted to the usage within the hotel, and he is not concerned with it becoming a bar type of use.”

....

“[Commissioner Savikas] said that she has a concern with noise from a party on the deck patio around the Jacuzzi spilling over to adjacent residences. She said that if she were to approve the proposal, she would like for conditions to be placed on the upper deck.”

“Director Thompson said that the original entitlement allowed for wine to be served on the top deck, and staff determined that 9:00 p.m. was the appropriate time to limit such service. He said that the change with the current proposal for the top deck would be to allow the service of full liquor in addition to wine. He pointed out that no entertainment would be permitted on the deck area. He indicated that **problems related to alcohol service typically occur after 10:00 p.m.**”

...

“[Commissioner O’Connor] stated that the original conditions imposed on the project were meant to protect the community and were reached after much public participation. ... He said that he does not share the concern of Commissioner Savikas with the rooftop deck because of the limitation on hours. He said that he is confident that any issues would be addressed by the accountability of the hotel owner and by the review of the Community Development Director.”

6/21/05 City Council Minutes [excerpts]

Senior Planner Laurie Jester explained that the original approval was for beer and wine, for guests only, with no restrictions on hours. She clarified that the concept of the “evening only Wine Bar” in the lobby is that it would be for the general public; that flexibility would come in if there was a demand from the guests to open the bar at 4:00 p.m. rather than 5:00 p.m.; and that weddings and events would be serviced by the portable bars. She further clarified that the original services approved were not matched to the Alcoholic Beverage Control (ABC) licenses that are available.

In response to Councils’ questions, Mike Zislis, owner of the Shade Hotel, emphasized that a full liquor license was necessary in order to have mini bars in the rooms; that he was successful in winning a license in the state lottery; that the liquor carts have to be licensed by the ABC; and that there is an extra fee for the cart. He explained that the cart is only for events in the courtyard or meeting rooms; that in fourteen years of business in Manhattan Beach, he has never had a “happy hour”;¹ that the wine bar will only be open from 5:00 -10:00 p.m. on weekdays and 5:00 - 11:00 p.m. on weekends (hours set by him); that a liquor license is necessary as a normal function of a hotel; that it is necessary to book events such as weddings or class reunions; and that in conclusion, in fourteen years of business, he has never violated an ABC law and has proven that he is a responsible business owner.

9/10/09, Manhattan Beach Sun

“Many of the issues surrounding Shade can be traced back to the hotel’s origins. Long before Zislis came into the picture, Metlox developer Jonathan Tolkin envisioned a quiet bed and breakfast concept at the site.

¹ From Shade Hotel’s current website: “Get Your Fix for Six-The South Bay’s favorite lounge, 4-7 pm Monday – Thursday in Zinc. \$6 selected drinks and appetizers.”

Laurie B. Jester

File
5/12/10 PC

From: Don McPherson [dmcphersonla@gmail.com]
Sent: Saturday, May 08, 2010 9:06 AM
To: David Lesser; Jim Fasola; Kathleen Paralusz; Martha Andreani; Sandra Seville-Jones
Cc: Mitch Ward; Nick Tell; Portia P. Cohen; Richard P. Montgomery; Wayne Powell; Richard Thompson; Bruce Moe; Robert Wadden; Rod Uyeda; Bryan Klatt; Laurie B. Jester; Liza Tamura
Subject: Executive Summary and Proposed Neighborhood Use Permit, Shade May 12 Hearing
Follow Up Flag: Follow up
Flag Status: Red

Planning Commission
City of Manhattan Beach
Via Email

Commissioners, for the record,

Subject: Executive Summary and Proposed Neighborhood Use Permit, Shade Hearing May 12

On behalf of Nate Hubbard, facilitator for the Shade neighborhood, I provide the executive summary for the May 12 hearing. The second attachment provides the neighborhood proposed use permit.

We request that at the hearing, the commission consider the conditions in the proposed use permit on an item-by-item basis.

We additionally request that the commission directs staff to provide a revised entertainment permit for inclusion in the resolution.

The 2002 Metlox master use permit stipulated that the hotel file annually for an entertainment permit. The city had the intention that this annual permit would provide staff flexibility in managing Shade, without having to modify the difficult to change use permit.

Subsequently, staff included in the entertainment permit considerable detail regarding use permit conditions that regulate Shade operations. This material needs updating in accordance with revisions approved by the commission in the use permit.

The input covered in this email does not include any response to the staff report for the May 12 hearing.

Apologies for the huge amount of evidence submitted to substantiate the terms and conditions in the proposed neighborhood use permit. The Shade application encompasses incredible complexity that defies simplification.

Don McPherson

05/10/2010

1014 1st St, Manhattan Beach CA 90266

310.487.0383

dmcphersonla@gmail.com

Copy: Former 2005 councilmembers and commissioners, Residents, Strumwasser & Woocher

EXECUTIVE SUMMARY FOR SHADE MAY 12 HEARING, PLANNING COMMISSION

INTRODUCTION.

At the October 2009 hearing, the planning commission directed residents and Shade to negotiate an extension of Zinc bar hours from 11 PM to midnight, Friday and Saturday, in exchange for measures to stop noise disturbances in the neighborhood.

Staff designated Shade to lead the effort. Residents met with Mr Zislis and others twice, once in November and once in March. At the first meeting, Mr Zislis outlined his approach: a vestibule at the front entrance, partial enclosure of the terrace, and extension of glass windscreens on the skydeck.

At the March meeting, Shade's architect described the above concepts for noise reduction. Behrens presented their acoustics analysis of concept effectiveness, a report that the commission has received, as well as a critique from the residents.

At both meetings, Shade included a one-hour extension for the skydeck. At the March meeting, Shade added a previously-submitted half-hour increase for Thursday and a new requirement to keep the Zinc bar open until 1 AM every day, for fifteen registered guests.

In December, residents submitted to the planning commission a draft proposed revision to the use permit. Neither staff nor Shade has addressed the residents' input, which has been updated to reflect Shade's current proposal, as an accompanying document to this executive summary for the May 12 hearing.

Residents have submitted five inputs of evidence, paraphrased as follows:

- How Shade got its Type 47 license
- Shade as a public nuisance
- Critique of the March acoustics analysis
- Four principal conditions in residents' proposed use permit
- Evidence of Zinc closing hour violation, in context of the bar-lobby separation wall.

This evidence substantiates the findings and conditions presented in the accompanying document, *Proposed Neighborhood Conditions for Shade Extended Hours*.

We request that at the forthcoming hearings, the commissioners consider the neighborhood conditions on an item by item basis. Exhibit B in the document provides an index that lists the relationships of each condition to previous permits. The index also includes an editable field for each condition, so commissioners can use it as a tool to record comments.

In the discussion, we provide rebuttals to arguments that staff and Shade may present. Residents have neither the resources nor speaking time for rebuttal, so please apply the following points when considering statements made by staff and Shade at the May 12 hearing.

DISCUSSION.

We first address possible arguments by staff and Shade on general issues, followed by specific noise-reduction measures.

Lapses at May 2005 Hearing that Approved the Type 47 License.

Staff and Shade did not disclose the Type 70 license that enables mini-bars, but restricts service to guests, which convinced the 2005 commissioners that they had no option, other than to approve the Type 47 license. Being deprived of options for Type 47 vs 70, the commissioners had no negotiating leverage to require more noise mitigation, an issue that concerned them.

EXECUTIVE SUMMARY FOR SHADE MAY 12 HEARING, PLANNING COMMISSION

Furthermore, because staff testified that the terrace would not have alcohol, the 2005 commissioners did not address that major noise source, which doubtless, they would have.

What would have happened if the commissioners knew they had an option to decide between the Type 47 and 70 licenses and that the terrace had alcohol service?

The Type 70 license has restrictions, for example, alcohol sales cannot exceed 5% of revenues. The Type 70 has the intent of enabling special events and cocktail hour at hotels, as well as the mini-bars. Presumably, Shade would have constructed interpretations of those restrictions to provide their registered guests and invitees all the alcohol they desired.

Regardless, the 2005 commission might have opted for the Type 47 license. But by having negotiating power, they also might have exacted effective noise reduction measures, especially for the terrace. We will never know what the commission would have required, if staff and Shade had not held back on the material facts at the May 2005 hearing.

The Pros and Cons of Acoustics Analysis.

The pros and cons of the acoustics analysis split between the October and March reports, with the pros in October and cons in March.

October report pros.

- Full enclosure of the terrace results in 20 dB noise reduction, which sound-absorbing drapes and ceiling fixtures will substantially increase. An open south entrance takes 10 dB off the 20 dB reduction for full enclosure.
- A partial wall between the front entrance and the lobby bar reduces noise by 15 dB. The full wall spanning the Zinc bar, as envisioned by Mr Zislis in his 2005 application, will increase noise reduction at the front entrance in excess of 20 dB.
- Contrary to a claim in the residents' critique of the Behrens reports, the noise measurements program in September did record amplified voice and music from a wedding in the courtyard and band in the Zinc bar. The October report states the noise sounded barely audible across the street, thereby proving Shade can conduct special events at volume levels that do not disturb the neighborhood, (but only when an acoustics contractor present to measure and record noise levels.)

March report cons.

- The March analysis did not compare the 4-8 dB noise reduction of the proposed front-door vestibule with Mr Zislis's previously-proposed sound wall between the Zinc bar and lobby, which will provide over 20 dB reduction.
- The report did not analyze terrace full-enclosure, implied in a staff email, Exhibit A.

Variance for Extension of Skydeck Glass Windscreens

The Behrens March report states that windscreen extension will not effectively reduce noise. Furthermore, this variance does not qualify as meeting standards required by law.

The Coastal Commission imposed the height limit on Metlox. Presumably, a variance to exceed maximum height will make the matter appealable to the Long Beach commission staff, which could agendize the matter at a commission meeting.

EXECUTIVE SUMMARY FOR SHADE MAY 12 HEARING, PLANNING COMMISSION

Shade STC-50 Materials vs Wall Separating Zinc and Lobby.

At the October hearing, staff testified that the STC-50 materials used in Shade construction preclude the necessity of the Zinc-lobby wall, required by the use permit.

The commissioners should request Behrens to explain the difference between meeting an STC-50 enclosure requirement versus using STC-50 materials.

For example, Behrens requires the front-door vestibule tightly bonded to the hotel wall, to block sound leaks, just to obtain a 4-8 dB estimated noise reduction. In comparison, a requirement for STC-50 performance equates to a measured 45 dB noise reduction.

Additionally, the bar-lobby wall must shield registered guests from Zinc noise, a 2005 planning commission requirement, and enable MBPD to enforce closing times. The STC-50 construction materials do not contribute to these crucial conditions.

Proposed Partial-Terrace Enclosure Violates STC-50 Requirement in May 2005 Resolution.

The 2005 resolution that approved the Type 47 license had the intent of enclosing the Zinc bar to meet the STC-50 standard. Finding O and Condition 1 in the 2005 use-permit amendment make this intent clear, as well as the interpretation by staff in the entertainment-permit, which additionally requires all external doors closed, when entertainment in progress.

Because staff misled the 2005 commissioners regarding alcohol service on the terrace, they could not have anticipated that the area would become an outdoor extension of the Zinc bar. As result, the current commission must extrapolate the city intention to enclose the lobby bar to meet STC-50 standards, by requiring the terrace to meet those standards as well.

The open design of the terrace makes it difficult to soundproof equal to STC-50. Nevertheless, full enclosure, with sound-absorbing drapes and ceiling fixtures, plus a closed south entrance at night, will reduce terrace noise sufficiently to protect the neighborhood.

The partial enclosure proposed by Shade will not, and furthermore, violates the city intent, as expressed in the 2005 resolution to contain the Zinc bar in a STC-50 enclosure.

Residents also request that the commission require courtyard drapes replaced with sound-absorbing material, because the Shade proposal does not address that noise source.

Special Events Not Permitted on Skydeck.

Special events are not permitted on the skydeck or terrace, according to Condition 28 in the 2002 Metlox master use permit (Resolution 5770), as amended by Condition 2 in the 2005 amendment (PC Resolution 05-08.)

Additionally, at the May 2005 hearing, staff testified that the skydeck will have no entertainment.

The proposed neighborhood conditions carry over these restrictions from the previous use permits. As result, at a minimum, the skydeck shall not have amplified live entertainment.

Consequently, the revised use permit should prohibit the skydeck entertainment sound system, approved by staff in the October 2008 entertainment permit.

EXECUTIVE SUMMARY FOR SHADE MAY 12 HEARING, PLANNING COMMISSION

Staff Over Doubled Zinc Bar and Skydeck Occupancies from October to December 2008.

As recently as last week, staff denies that they over doubled Zinc bar and Skydeck occupancies from October to December 2008. Exhibit B provides pages from the October and December 2008 entertainments permits, showing the doubling of occupancies.

Page 3 of Exhibit B provides the staff statement that they only have had one set of occupancies, issued in the December 19, 2008 use permit. Page 4 shows an email making the same statement.

Staff must roll occupancies back to the October 2008 numbers and further reduce the Zinc bar occupancy, by removing the lobby square-footage east of the Zinc-lobby wall.

Shade Proposal Does Not Address Administrative Noise-Reduction Measures.

The Shade proposal does not address disturbances outside the front entrance or at the 12th St intersection, as result of patrons exiting the terrace south entrance late at night.

The neighborhood conditions include moving Metlox valet service to Morningside Dr and having the city prohibit taxi pickup and drop-off on Valley Dr after 9 PM.

Additionally, closure of the terrace south entrance as a noise source after 9 PM provides an added administrative benefit. It will require bar patrons to enter and exit at the hotel west entrance, conveniently located near the Metlox valet parking moved to Morningside Dr.

CONCLUSIONS.

To stop Shade disturbances, we request that the commissioners honor the intent of the 2005 planning commission and uphold requirements in PC Resolution 05-08, which enabled the Type 47 license, as an amendment to the 2002 Metlox master use permit.

Furthermore, we request that the commissioners add or strengthen provisions to reduce Shade noise, as specified in the accompanying *Proposed Neighborhood Conditions for Shade Extended Hours*. We provide an updated version of that document, first submitted in December 2009. It has not changed much from the initial draft.

That input from residents closely follows the previous use permits, but organizes and clarifies the conditions to remove ambiguities and enable enforcement. At the May 12 hearing, we request that the commissioners consider our proposed conditions on an item-by-item basis.

Finally, we request that the planning commission directs staff to provide a revised entertainment permit for approval, as part of the resolution. The entertainment permit contains detail on conditions, which provides the city with flexibility to manage Shade outside the use permit, a document extremely difficult to modify, by virtue of granting property rights.

EXHIBIT A
STAFF EMAIL REGARDING ANALYSIS OF FULLY-ENCLOSED TERRACE

From: [Nate Hubbard](#)
To: [Don McPherson](#)
Subject: Fwd: Terrace- shade
Date: Monday, November 23, 2009 14:53:28

FYI

Begin forwarded message:

From: "Laurie B. Jester" <ljester@citymb.info>
Date: November 23, 2009 2:32:48 PM PST
To: Nate Hubbard <natehubz@mac.com>
Subject: **FW: Terrace- shade**

Nate-

I talked to Tom, they modeled the area assuming it was completely enclosed with glass panels, and a glass door. No panels or curtains. For this next go around the modeling will be based on a more specific design that the architect and acoustic engineer work out.

thanks

Laurie Jester
310-802-5510

From: Nate Hubbard [<mailto:natehubz@mac.com>]
Sent: Monday, November 23, 2009 1:03 PM
To: Laurie B. Jester
Subject: Terrace

Hi Laurie,

Please provide from Behrens a description of how they modeled the terrace enclosure for their analysis of that noise source mitigation. I couldn't figure it out from their report. Did they fill in the open upper tier? Did they place sound absorbing panels on the ceiling and north wall. Did they use something like Acousti-Curtain to replace the existing drapes?

thanks Nate

EXHIBIT B

OCTOBER 2, 2008 ENTERTAINMENT PERMIT SPECIFYING OCCUPANCIES

GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.
Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Police Department:

1. The Police Department shall be notified of entertainment scheduling in writing at least 7 days prior to any event. Notification shall include operating details pertaining to type of entertainment, including size and location of performance or dance area, size of band and number of performers, hours, type of instruments, type of music, type and location of amplification, speakers and other equipment, volume of amplification, type of event, number of guests, location of event, food service, supervision, hours of event including setup and breakdown, and type of transportation for guests. Contact Traffic Sgt. Office at 310-802-5156.
2. The applicant shall comply with all of the requirements of Chapter 5.48 Noise Regulations, of the City of Manhattan Beach Municipal Code. (See Sections 5.48.140 and 5.48.160 for specific noise standard regulations)

Fire Department:

Required occupancy loads shall not be exceeded and exits shall remain unobstructed. The exact numbers are required to be posted on the site:

Roof Deck - 45
Lobby Bar (Zinc Lounge)- 77
Patio to south of Zinc Lounge- 47
Courtyard Area - 200

Community Development Department:

1. Hours for special events with entertainment or amplified sound shall be limited to 10 AM to 10:00 PM daily.
2. Entertainment or amplified sound shall be in conformance with the attached approved floor plan including: the designated amplified live entertainment/performer location adjacent to the east wall of the Zinc Lounge, and a dance floor area approximately 15' by 20' adjacent to the performer area. Entertainment or amplified sound is prohibited on the Zinc Terrace. The outdoor courtyard to the north of the Zinc Lounge and the Skydeck may only be used for live entertainment, amplified sound or events with a 14 day prior notice and approval of the City. A maximum of 6 events per year may take place in this outdoor courtyard and the Skydeck.
3. A maximum of 4 performers shall be permitted at any time. Entertainment that would result in dancing which exceeds the capacity of the 15' by 20' dance floor shall be prohibited. Entertainment and dancing shall conform to the attached floor plan. Amplified sound shall be allowed a maximum of 4 times per month. Entertainment at other times shall be limited to acoustic performances only and limited to a maximum of 2

EXHIBIT B

DECEMBER 19, 2008 ENTERTAINMENT PERMIT SPECIFYING OCCUPANCIES

AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Police Department:

1. The Police Department shall be notified of entertainment scheduling in writing at least 7 days prior to any event. Notification shall include operating details pertaining to type of entertainment, including size and location of performance or dance area, size of band and number of performers, hours, type of instruments, type of music, type and location of amplification, speakers and other equipment, volume of amplification, type of event, number of guests, location of event, food service, supervision, hours of event including setup and breakdown, and type of transportation for guests. Contact Traffic Sgt. Office at 310-802-5156.
2. The applicant shall comply with all of the requirements of Chapter 5.48 Noise Regulations, of the City of Manhattan Beach Municipal Code. (See Sections 5.48.140 and 5.48.160 for specific noise standard regulations)

Fire Department:

Required occupancy loads shall not be exceeded and exits shall remain unobstructed. The exact numbers are required to be posted on the site:

Roof Deck - 92
Lobby Bar (Zinc Lounge) - 159
Patio to south of Zinc Lounge- 47
Courtyard Area - 151
Conference Room - 44

Community Development Department:

1. Hours for special events with entertainment or amplified sound shall be limited to Sunday-Thursday: 10 AM to 11:00 PM, and Friday-Saturday: 10 AM to Midnight.
2. Entertainment or amplified sound shall be in conformance with the attached approved floor plan including: the designated amplified live entertainment/performer location adjacent to the east wall of the Zinc Lounge, and a dance floor area approximately 15' by 20' adjacent to the performer area. Entertainment or amplified sound is prohibited on the Zinc Terrace. The outdoor courtyard to the north of the Zinc Lounge and the Skydeck may only be used for live entertainment, amplified sound or events with a 14 day prior notice and approval of the City.
3. A maximum of 6 performers shall be permitted at any time that amplified sound is incorporated. Entertainment that would result in dancing which exceeds the capacity of the 15' by 20' dance floor shall be prohibited. Entertainment and dancing shall conform to the attached floor plan. All doors leading to the outside shall remain closed at all times.

EXHIBIT B

STAFF FEBRUARY 2010 STATEMENT THAT ONLY ONE SET OF OCCUPANCIES

The only occupancy loads ever established and approved by the City are shown in the Fire Department Conditions of Approval on the December 19, 2008 Entertainment Permit. For your reference, attached is an "as built" floor plan, which is consistent with the occupant loads posted at the Shade Hotel, with the California Building Code, and the 2008 Entertainment Permit.

EXHIBIT B

STAFF STATEMENT THAT THEY HAVE SPECIFIED ONLY ONE SET OF OCCUPANCIES

From: "Laurie B. Jester" <ljester@citymb.info>

Date: May 2, 2010 5:41:49 PM PDT

To: Nate Hubbard <natehubz@mac.com>, Richard Thompson <rthompson@citymb.info>

Cc: Rod Uyeda <ruyeda@citymb.info>, List - Planning Commission <PlanningCommission@citymb.info>

Subject: RE: Some questions

Nate-

1- I can not reply for Police

2- The City mails public notices for all applications; the applicant does not mail notices

3-No I am not planning on having a Resolution

4- We previously responded in detail to this, so briefly again. The City has only had one set of occupancies for Shade, ever.

Laurie

Laurie B. Jester

Community Development Acting Director

P: (310) 802-5510

E: ljester@citymb.info

City of Manhattan Beach, CA

PROPOSED NEIGHBORHOOD CONDITIONS FOR SHADE EXTENDED HOURS

Summary of Proposed Findings and Conditions.

Our core group of residents has recommended that the neighborhood accept an extension of Zinc bar closing from 11 PM to midnight for Friday and Saturday, in exchange for use permit conditions that will stop the noise disturbances.

Exhibit A lists these requirements. Originally submitted to the planning commission in December 2009, the updated version shows changes marked by bars in the left margin.

In three public hearings since June 2009, the neighborhood has unanimously opposed any extension of hours. Residents express the following concerns.

1. By violating use and entertainment permits, as well as noise regulations, Shade constitutes a public nuisance, so extended hours will worsen the situation.
2. Shade will not comply with new permit conditions, nor will the city enforce them.
3. Shade will continue to operate primarily as a nightclub, not the hotel described by the Metlox Master Use Permit and PC Resolution 05-08.

To address the concerns above, we have taken a systems approach to identify necessary conditions to impose on Shade. Previous inputs have identified the four highest priority items:

- Folding, sound-absorbing wall between Zinc and lobby, required by current use permit
- Full enclosure of the terrace, including sound-absorbing drapes and ceiling fixtures
- No amplified live entertainment on skydeck, other than marriage vows by principals
- Reduced occupancies, by compliance with certain city and ABC regulations.

With exception of certain physical and administrative noise abatement measures, Exhibit A adds no new significant restrictions on Shade.

Exhibit B provides an index showing the linkage of our conditions to current Shade regulations and requirements.

We propose that the new resolution should rescind PC Resolution 05-08 and include all conditions relevant to Shade, as well as modifications to the Metlox permit, Resolution 5770.

Community Development needs flexibility to manage Shade, using the entertainment permit for that purpose. We also request that the planning commission approve an updated and revised entertainment permit as part of the process.

Guide to Exhibits.

Exhibit A lists findings and conditions, numbered as follows:

- 'RF' refers to 'Residents' Finding'
- 'RC' refers to 'Residents' Condition

To organize the conditions, we have grouped them into the following categories:

1. Definitions
2. Entertainment and Noise Regulations
3. Space Layouts and Building Plans
4. Hours for Alcohol Service
5. Ingress-Egress Control
6. Food Service
7. Promotion and Advertising.

PROPOSED NEIGHBORHOOD CONDITIONS FOR SHADE EXTENDED HOURS

For those conditions in Exhibit A needing additional explanation, we have boxed-in a short narrative immediately following the item.

To show compatibility with previous requirements, where applicable, we prefaced each condition with the relevant sections in the use and entertainment permits, listed as follows:

- Reso 5770: Metlox Master Use Permit, Resolution 5770, July 22, 2002
- Reso 05-08: PC Resolution 05-08, Amendment to Reso 5770, June 21, 2005
- Annual Entertainment Permit, December 19, 2008

We show where changes from previous permits occur with *italicized emphasis*.

The city has approved four annual entertainment permits, starting July 2006. All have nearly identical language, with the following changes. In the October 3, 2008 permit, staff approved an entertainment sound system for the skydeck, despite testifying at the May 2005 hearing that no entertainment would occur there. In the October 2008 entertainment permit, staff introduced MBFD occupancies. Less than three months later, in the December 19, 2008 permit, staff over doubled the occupancies for the Zinc bar and the skydeck.

Since inception in 2006, the entertainment permits have included 13 requirements originated by Community Development, many of which address noise issues raised during the recent public hearings, such as restricting valet service at the hotel entrance. We identify the relevant Community Development conditions as 'CD-N', with 'N' being the numbered condition in the entertainment permit.

In the entertainment permit, staff also included from Reso 5770 and PC Reso 05-08 a number of use permit requirements, 12 all told, which address suppression of disturbances. In some cases, staff expanded on the use permit conditions. We identify staff's relevant use permit conditions as 'UP-N', with N being the numbered condition in the entertainment permit.

Exhibit B provides an index listing the linkage of all our conditions to the current permits cited above. Each condition has an editable field below it, in which commissioners can add comments, thus providing a tool for them to evaluate the proposed conditions.

Exhibit C provides the layout for soundproofing the Zinc bar and lounge, specifically the retractable partition that separates the lobby from the bar. Exhibit C also includes the text from Finding O in PC Resolution 05-08, which requires both the separating partition and the room soundproofed to the ASTM International standard, STC-50.

EXHIBIT A

PROPOSED NEIGHBORHOOD USE PERMIT TERMS AND CONDITIONS

FINDINGS.

RF-1. Based on testimony from many residents in the neighborhood, the Shade Hotel makes noise that discomforts and irritates reasonable persons of normal sensitiveness. The police have responded to numerous calls regarding Shade disturbances, and for several of these incidents, have booked as evidence, reports and recordings of noise from Shade.

Narrative. Since June 24, 2009, in three public hearings, the planning commission has heard testimony from many residents living near Shade. They unanimously opposed extending hours, because of the noise that Shade makes, thus providing evidence that the hotel violates the subjective standards in the municipal code, §5.48.140 Noise Disturbances.

RF-2. The hotel has violated several requirements in PC Resolution 05-08, an amendment to the Metlox Master Use Permit, Resolution 5770. Additionally, the hotel has violated requirements in its annual entertainment permit. Violations having the most impact on the neighborhood include failure to soundproof the Zinc bar (as required by Resolution 05-08), operation past closing times, and amplification of entertainment, so that it disturbs the peace and quiet of the neighborhood.

RF-3. If a retractable partition separates the Zinc bar and lounge from the lobby, as required by PC Resolution 05-08, those alcohol-service areas will provide adequate room and capacity to provide registered hotel guests and their guests a place to relax and socialize.

Narrative. Mr. Zislis has testified that registered guests expect the bar to operate until midnight. The Zinc bar, separated from the lobby by a retractable partition, will meet that requirement.

RF-4. The governing use permits, Resolution 5770 and amendment PC Resolution 05-08, express the intent for Shade operate as a first-class hotel, with the primary purposes to attract visitors downtown for support of existing businesses, as well as providing residents with a special place for celebrations. The hotel has not complied with prohibition of promotions for the Zinc bar, terrace and skydeck, as well as special events and public functions.

RF-5. Community Development has conducted an acoustics analysis to evaluate possible measures to mitigate Shade noise. Some noise sources, such as disturbances at the entrance to the hotel, require administrative means to mitigate. Although conditions below mandate physical and administrative mitigation measures, they alone cannot guarantee abatement of disturbances in the residential neighborhood. Furthermore, effectiveness of the conditional mitigation measures cannot be fully demonstrated, until tested throughout a summer.

RF-6. As result, Community Development shall use the annual entertainment permit as a supplemental tool to provide the necessary flexibility to require compliance with noise regulations, by imposing new conditions, or by modifying existing conditions, regardless of whether those conditions or modifications relate to entertainment per se. Community Development may administratively tighten restrictions, but shall not loosen them, without review and comment noticed to property owners within 500 feet and residents within 100 feet. Community Development shall submit a revised entertainment permit as part of this approval.

EXHIBIT A

CONDITIONS.

RC-1. Definitions.

RC1-1. Closed or closing-time. Area vacated by all customers and alcohol sales ended, including room service and in-room service.

Narrative. To enforce this definition of closing, the Zinc bar/lounge must have the retractable partition for physical separation from the lobby, which remains open all night.

RC1-2. Special event. An event under contract that has exclusive use of one or more venues. All special events shall pay charges consistent with those for other special events of similar nature and scheduling. Special events may not use the terrace or skydeck. Attendees at special events must have an invitation from the host client. The general public may not join nor participate in special events. Individual special events may not be marketed nor promoted.

Narrative. Special events require a detailed definition, to prevent Shade from using them as cover for public use of the courtyard, conference rooms or penthouses. Regarding exclusion of the terrace and skydeck, Reso 05-08 Condition 2 limits special events to the Zinc bar/lounge, courtyard and conference rooms (Green Rooms.)

RC1-3. Function. An event held in the courtyard for the public, including, but not limited to, Oktoberfest, Halloween, New Years, Valentines, St Patrick's Day and AVP. The entertainment permit shall authorize the number of functions permitted annually.

RC1-4. Registered Guest. A guest who occupies a room overnight. Privileges for registered guests extend to their invitees only as stated in this amendment.

RC1-5. Invitee. A guest of a registered guest.

RC1-6. Marketing and Promotion. Any marketing, promotion or advertising, using any media, including but not limited to, fliers, newspapers, radio-TV, Internet, social networking sites, email to the public and the Shade website.

RC-2. Entertainment and Noise Regulations

RC2-1. (From Resolution 08-05 Finding O and Condition 1, and entertainment permit UP-4; *modifications italicized.*) The Zinc bar and lounge shall be soundproofed, including door, wall, and ceiling treatments, with a *retractable sound-absorbing* partition between the lobby and the bar area, to a sound transmission coefficient of STC-50. *The retractable partition shall be deployed whenever entertainment provided, or no later than 6 PM each day, until close. The STC-50 sound transmission coefficient shall be demonstrated in accordance with the appropriate ASTM International standard for sound transmission between rooms, in all directions, including up, but not westerly.*

Narrative. Without this condition, as per their comments, the police cannot enforce the closing time on the Zinc bar, because of co-use by the lobby, open 24-hours a day. See Exhibit C for drawings of the retractable wall, which has no impact on the size of the Zinc bar and lounge. According to the Event Space Layout in the entertainment permit, Shade must keep clear a 6.5-ft wide corridor, to allow access to the lobby desk, elevator and hotel fire passage. The retractable wall physically creates and maintains that corridor, when the bar heavily patronized.

EXHIBIT A

- RC2-2. A deployable continuous means shall entirely enclose the terrace, except for a closable south entrance, meeting fire-exit standards. The terrace shall have drapes of sound-absorbing material, with spectral absorption coefficients equal to or better than Acousti-Curtain™ and being hung inside enclosures. The ceiling shall have sound-absorbing material applied. After 9 PM every day, the drapes shall entirely enclose the terrace. They shall remain open after closing times to enable visual inspection.
- RC2-3. The courtyard shall have drapes with the same sound-absorbing material used for the terrace. A sound-absorbing retractable wall shall close off the courtyard from the east-west corridor, north of the Zinc bar wall. Because the courtyard will remain open at the top, the hotel shall maintain sound volumes, including non-amplified voice, so as not to dominate the ambient background outside the premises for any length of time.
- RC2-4. For the skydeck, the hotel shall maintain sound volumes so as not to dominate the ambient background outside the premises for any length of time. Speakers for background music shall have mounts near floor level, not atop the glass windscreen posts. Amplified entertainment voice or music shall not be permitted, except for marriage vows by wedding principals, not including a master of ceremonies.
- RC2-5. When the penthouses used for special events, hotel staff shall close and lock balcony doors after 10 PM.

Narrative. An Internet review states that Shade continues to serve alcohol to the public in the penthouses, after the Zinc bar closes.

- RC2-6. (From entertainment permit CD-5; *modifications italicized*) The volume of music, entertainment, *group singing, or voice, whether or not amplified*, may not be audible outside of the hotel facilities to the *following extent. For any length of time, the noise may not dominate the background ambient noise, as defined in municipal code noise regulations, nor disturb surrounding tenants. After cessation of alcohol service in any venue or for any event, only low-volume "background" type of music is allowed. Background music is defined as not greater than 55 dB, nor less than normal conversation at a range of 3 to 5 feet, whichever lesser.*

Narrative. We have modified this condition from the annual entertainment permit into a form that the police can enforce. In the entertainment permit, Condition CD-5 cites "...disturbs the neighbors..." as a violation. We have changed that to municipal code language, which states that the police may determine "the total noise level...shall be considered to be the alleged intrusive noise if in the opinion of the officer the alleged noise is the dominant noise sources." Consequently, police recordings of the noise will constitute evidence of violation.

- RC2-7. Special events and functions of more than 125 attendees require notice and a temporary use permit. In the annual entertainment permit, Community Development may reduce the maximum number of attendees for special events and functions not needing notification, but cannot increase the maximum number. Special events and functions cannot exceed fire department capacities for the various venues or spaces.
- RC2-8. (From entertainment permit CD-2; *modification italicized*) Entertainment or amplified sound, except for low-level background music, is prohibited on the Zinc Terrace.

EXHIBIT A

RC2-9. (From entertainment permit CD-3, *as italicized*) *Dancing is limited to the Zinc bar/lounge.*

RC2-10. Each year, the hotel shall apply for an annual entertainment permit on March 1, in accordance with Condition 40 in Resolution 5770, Metlox Master Use Permit.

RC2-11. The hotel shall maintain on its website a schedule of all special events and functions.

RC2-12. The hotel shall continue to maintain surveillance video coverage at all times, to provide law-enforcement officers with evidence to support arrests made of hotel patrons.

RC-3. Event Space Layouts and Building Plans.

RC3-1. (From Event Space Layout plan in the entertainment permit) Except for special events, at all other times, the alcohol-serving venues shall maintain tables, chairs, and other furnishings as typical of daily hotel operations, such as shown in the annual entertainment permit dated December 19, 2008, for which the Fire Department will determine maximum occupancies. Arrangements shall expedite food consumption.

Narrative. A resident has observed that Shade removed all the tables and chairs from the terrace, as well as moving the sofas in the Zinc lounge along the walls of the terrace, thus creating a large open space for patrons to stand shoulder-to-shoulder on big bar nights. This configuration violates the Event Space Layout in the entertainment permit.

RC3-2. For special events in the courtyard and the Zinc bar/lounge, the applicant shall provide event space layouts representative of typical serving table and seating arrangements, for which the fire department will determine maximum occupancies. Arrangements shall expedite food consumption and resemble the layouts shown in the annual entertainment permit dated December 19, 2008.

RC3-3. The skydeck and terrace shall at all times maintain the same seating and table arrangements as for daily hotel operations.

Narrative. Reso 05-08 Condition 2 limits special events to the Zinc bar/lounge, courtyard and conference rooms, but does not authorize special events to use the skydeck or terrace.

RC3-4. Under no circumstances shall the lobby area east of the Zinc retractable wall be used for general public or event alcohol consumption.

RC3-5. (From Reso 05-08 Condition 1; *revised as italicized*) The proposed *changes* shall be in substantial conformance with the plans submitted, the project description *and revised entertainment permit*, as approved by the Planning Commission on (approval date), subject to any special conditions set forth *in this amendment*. The layout of sound mitigation measures is subject to further review and approval by the Director of Community Development. Any substantial deviation from the approved plans, project description, *and revised entertainment permit* must be reviewed and approved by the Planning Commission.

EXHIBIT A

RC-4. Hours for alcohol service (*Changes and additions italicized.*)

Hours for alcohol service restricted to venues below; no other spaces permitted.		
Venue/Event/Services	Venue Closing Time; Open 6 AM, per Cond. 39, Reso. 5770	End of Alcohol Service, Before Closing, Minutes
<i>Zinc bar and lounge, Fri-Sat</i>	<i>Midnight¹ (see Note 1 below)</i>	30
Zinc bar and lounge, Sun-Thu	11 PM ¹	30
Terrace, no special events	Same as Zinc bar and lounge	30
Conference (Green) Room(s)	Special events only; no public ¹	Same as special events
<i>Penthouses, two</i>	<i>Special events only ; no public¹</i>	Same as special events
Skydeck	10 PM; no exceptions (see Note 2)	60
Courtyard, special events	Special events only; no public ¹	Same as special events
Courtyard, functions	Same as special events ¹	30
Special Events	11 PM Sun-Thu ¹ ; midnight ¹ Fri-Sat	30
<i>Room Service, Alcohol</i>	<i>Same as Zinc</i>	<i>0 (Zinc closing time)</i>

Note 1. *New Years Eve closing and public use, as permitted by ordinance.*

Note 2. Skydeck closes at 10 PM; no exceptions, including special events and New Years Eve.

Narrative. In exchange for conditions that will stop Shade from disturbing the neighborhood, the core residents group has agreed to extension of the Zinc bar and lounge closing hour from 11 PM to midnight, Friday and Saturday. The table also lists other closing times stipulated in several sections of the Reso 5770 and Reso 05-08 use permits, as detailed in Exhibit B. We use italicized emphasis for items changed or not covered in the existing use permits.

RC-5. Ingress-Egress Control

RC5-1. The general Metlox Plaza valet service shall move from the Shade entrance

Narrative. It appears that Morningside Drive can accommodate Metlox valet parking.

RC5-2. (From entertainment permit CD-9, *modifications italicized*) *Except for registered guests, after 10:00 PM on Thursday, Friday and Saturday, on holidays, and after all special events at the hotel during any day of the week, the pick-up for cars that are parked in the valet area shall be inside of the Metlox parking structure on the P-1, first level, near the escalators to minimize noise and disturbance to the neighbors. Pickup by the valet shall also not be permitted at the hotel entrance off Valley Drive at these times. The valet shall keep all driving lanes, parking back-up areas, and all vehicular and pedestrian access ways free and accessible to the general public, subject to approval of the Director of Community Development. No permanent signage or structures shall be allowed. Any temporary signage or structures shall only be placed from 9:00 PM to midnight.*

EXHIBIT A

RC5-3. The city shall prohibit taxi pickups and drop-offs on Valley Dr after 10 PM. Hotel employees shall discourage the public from using taxis on Valley Dr after 10 PM. Taxi pickups and drop-offs at the Shade entrance shall be prohibited after 10 PM. Hotel staff may call for a taxi to pickup registered guests at the entrance after 10 PM.

Narrative. The Behrens acoustic report at §2.5.4 recommends signage at Valley Drive to control pickup and drop-off by taxis.

RC5-4. The Zinc queue shall move to the west-side Shade door, to prevent noise from escaping the terrace south-side entrance. The hotel shall obtain an encroachment permit to align the queue on the Metlox Plaza, along the hotel west wall. Registered guests and their invitees shall continue to have direct access, without waiting, into the bar and terrace areas.

Narrative. At the Oct 28 hearing, the Behrens analyst testified that the south entrance of the terrace must close to obtain sound mitigation, which would require the queue to move to the west entrance of the hotel. Registered guests currently have direct access to the bar and terrace, without having to wait in line.

RC5-5. (From entertainment permit CD-10, *modification italicized*) After 10:00 PM on *Thursday, Friday and Saturday, on holidays, and after all special events at the hotel during any day of the week, non-registered* guests at the hotel facilities shall use the *west door, opening on to the Metlox Plaza, to enter and exit the hotel, and not the front entry door that opens onto Valley Drive.* Employees shall close and monitor the front entry door as required to ensure *access only by registered guests, and that non-registered guests use the west door while maintaining required emergency access.* Employees shall also remind the patrons as they depart to respect the neighbors and to minimize noise and disturbance. The hours and days may be administratively modified in the annual entertainment permit to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.

Narrative. We have changed this entertainment permit condition, to require bar patrons after 10 PM to enter and exit the hotel from the west door, rather than the south terrace entrance, which will temporarily close after 9 PM.

RC5-6. (From entertainment permit CD-6) The hotel shall ensure that their employees, contract employees, contractors servicing events, and all others providing services to the Hotel shall not park on the public streets, in the residential areas or in Parking Lot 8 (the lot in the median of Valley and Ardmore). All parking shall be on the Metlox site or in other public parking structures such as Lot 3.

RC5-7. (From entertainment permit CD-8) Any large transportation such as buses, shuttles, or recreational vehicles shall not use the hotel drop off area, but shall load and unload off of Morningside Drive or 13th Street. The vehicles shall observe and comply with all parking regulations in these areas.

RC5-8. (From Reso 5770 Condition 28 and Reso 05-08 Condition 2) Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City.

EXHIBIT A

RC-6 Food service.

RC6-1. (From Reso 05-08 Finding L and Conditions 3 and 5; *rewritten as italicized*) *In addition to room service, which includes the penthouses, breakfast and lunch may be served in the Zinc bar, lounge, terrace, conference room(s) and skydeck. Except for special events and functions, food will not be served in the courtyard. Small plates may be served in all venues, when authorized for alcohol service. The hotel shall not operate a full-scale restaurant.*

Narrative. This condition combines several requirements regarding food service in PC Resolution 05-08, as well as legitimizing the lunch service that Shade currently provides.

RC-7. Promotion and Advertising.

RC7-1. (From Reso 5770 Condition 28, Reso 05-08 Condition 2 and entertainment permit UP-7; *modifications italicized*) The availability of the Inn for special events shall not be marketed as the primary use. *The hotel website may have pages that describe various venues, including costs and availability, but may not advertise individual functions or periodic events, such as pool parties.*

RC7-2. (From Reso 05-08 Finding M & Condition 4, and entertainment permit UP-9; *modifications italicized*) All hotel marketing, advertising, and promotions shall be limited to attracting potential hotel guests and event planners. The Zinc *bar/lounge, terrace* and Skydeck will not be marketed to the general public as separate hospitality attractions. All advertising, marketing and promotions will be focused on potential hotel guests and not the general public.

RC7-3. (From Reso 05-08 Condition 6 and entertainment permit UP-11) The hotel shall not post any drink or food menus, or any drink or food signage outside of the hotel.

EXHIBIT B

INDEX OF PROPOSED CONDITIONS TO EXISTING REQUIREMENTS

Proposed Conditions	Corresponding Existing Regulations and Acoustic Analysis
RC1-1 - RC1-6 Definitions	New
<p>COMMISSIONERS: To aid in your consideration of conditions listed below, you can enter comments for each condition in the blue text fields. If this does not work, please visit http://www.adobe.com/ and download the latest Reader. Delete this text to enter comments.</p>	
RC2-1 Zinc bar soundproofing	Reso 05-08, Finding O and Condition 1; Entertainment Permit Description No. 4 of use permit (UP-4)
RC2-2 Terrace soundproofing	New; requirement identified in Behrens report, §2.5.3
RC2-3 Courtyard soundproofing	New; Behrens failed to identify courtyard as noise source
RC2-4 Skydeck noise	Conformance to MBMC §5.48.160 (C)
RC2-5 Penthouse noise	New. According to an Internet review, groups use the penthouses to party, after Zinc bar closes
RC2-6 Noise level limits	Entertainment Permit CD-5, as per MBMC §5.48.160 (C)
RC2-7 Special Event Attendance	Reso 5770 Condition 28 and Reso 05-08 Condition 2
RC2-8 No music on terrace	Entertainment Permit CD-2
RC2-9 Dancing limited to Zinc bar	Entertainment Permit CD-3
RC2-10 Entertainment permit annual March 1 application	Reso 5770 Condition 40 and Entertainment Permit Condition CD-13
RC2-11 Website schedule	Modification of Entertainment Permit PD-1
RC2-12 Surveillance video evidence	New
RC3-1 Hotel routine use space layouts	Event space layout drawing in entertainment permit
RC3-2 Special event space layouts	Above drawing
RC3-3 Skydeck & terrace layouts	Above drawing and Reso 05-08 Condition 2
RC3-4 No alcohol use in lobby	New; Reso 05-08 Finding M
RC3-5 PC approval required for substantial changes	Reso 05-08 Condition 1

EXHIBIT B

INDEX OF PROPOSED CONDITIONS TO EXISTING REQUIREMENTS (CONCLUDED)

Proposed Conditions	Corresponding Existing Regulations and Acoustic Analysis
<p>RC4 Hours of alcohol service</p> <ul style="list-style-type: none"> • Alcohol service start, 6 AM • Zinc bar 12 AM close, Fri-Sat • Zinc bar 11 PM close, Sun-Thus • Terrace 11 PM close • Conference rooms & penthouses • Skydeck close, 10 PM • Special Event close, 11 PM Sun-Thu; 12 AM Fri-Sat • Courtyard function close, 8 PM • Skydeck end of service, 9 PM • All other venues end of service, 30 min before close 	<ul style="list-style-type: none"> • Reso 5770 Condition 39 • New • Reso 05-8 Finding L • Reso 05-8 Finding L • See special events • Reso 5770 Condition 30 • Reso 5770 Cond. 28 and Reso 05-08 Condition 2 • New • Reso 05-08 Condition 7 • Reso 05-08 Condition 8
<p>COMMISSIONERS: To aid in your consideration of conditions listed below, you can enter comments for each condition in the blue text fields. If this does not work, please visit http://www.adobe.com/ and download the latest Reader. Delete this text to enter comments.</p>	
RC5-1 Move Metlox valet	New
RC5-2 Valet parking after 10 PM	Entertainment Permit CD-9
RC5-3 Taxi pickups after 10 PM	New; included in Behrens report, §2.5.4
RC5-4 Move Zinc queue	New; included in Behrens report, §2.4.3 and 2.5.3
RC5-5 West-door use by bar patrons	Entertainment Permit CD-10, modified
RC5-6 Employee parking	Entertainment Permit CD-6
RC5-7 Bus parking	Entertainment Permit CD-8
RC5-8 Metlox Plaza use	Reso 5770 Condition 28 and Reso 05-08 Condition 2
RC6-1 Food service	Reso 5770 Condition 38 and Reso 05-08 Finding L and Conditions 3 & 5
RC7-1 Special event marketing	Reso 5770 Condition 28 and Reso 05-08 Condition 2
RC7-2 Hotel marketing	Reso 05-08 Finding M and Condition 4
RC7-3 Outside hotel signage	Reso 05-08 Condition 6

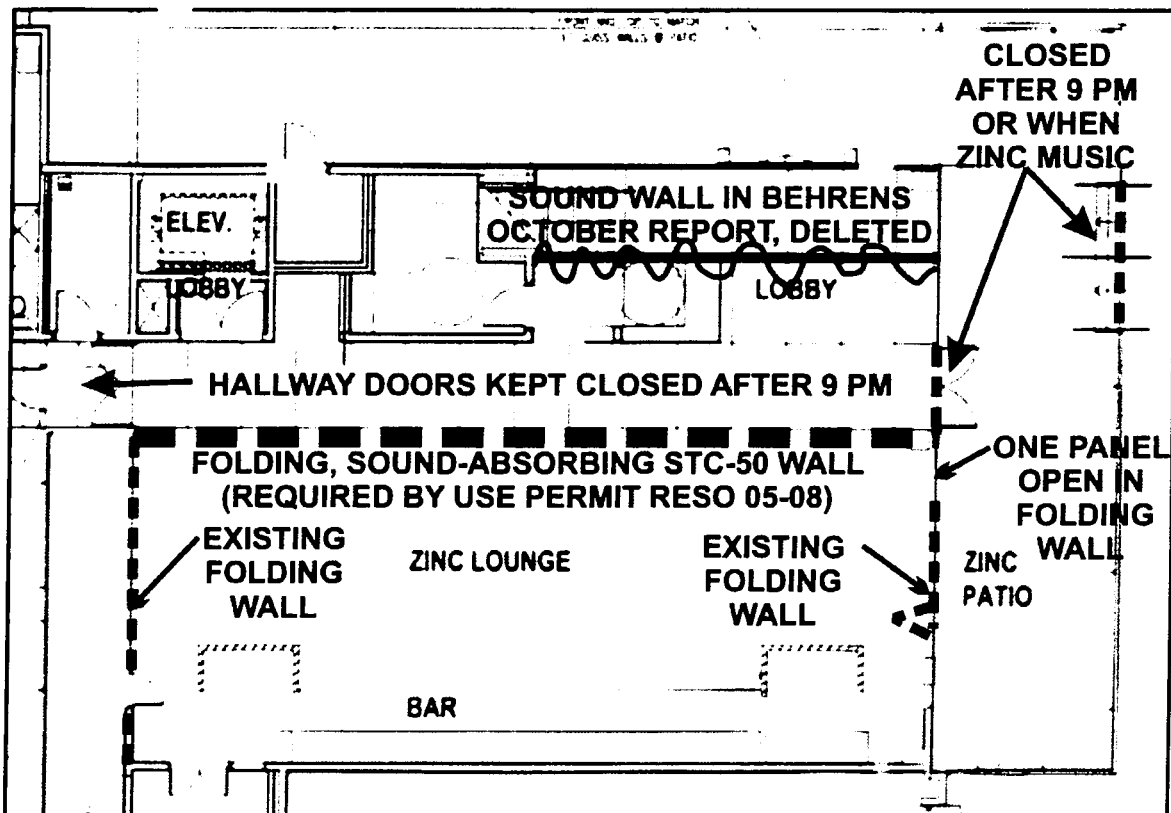
EXHIBIT C

**LAYOUT OF ZINC SOUNDPROOFING
REQUIRED BY USE PERMIT RESOLUTION 05-08**

Text of Finding O, PC RESOLUTION 05-08, Shade amendment to use permit.

O. Potential noise concerns will be addressed through the review of the annual Entertainment Permit as well as a retractable partition in the Living Room will be installed which is capable of separating the Wine Bar/Living Room facility from the reception area. The walls and partition of the Living Room will insulate the sound produced by events as the room will have a STC (Sound Transmission Code) rating of 50.

- Underlying graphic taken from Behrens acoustic engineering report, Figure 2-23.
- STC-50 standard in ASTM E 90, Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements



AMENDED GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.

Location: 1221 N Valley- Shade Hotel- Metlox

CONDITIONS OF APPROVAL

Use Permit Condition 4. Noise mitigation strategies shall be implemented including door, wall and ceiling treatments, as required within the Zinc Lounge and Zinc Terrace area in order to mitigate noise. The Zinc Lounge shall demonstrate that the insulation achieves an STC (Sound Transmission Code) rating of 50 to mute the noise.

LATE

ATTACHMENTS

FOR

6/23/10

P.C. MEETING

Laurie B. Jester

From: Don McPherson [dmcphersonla@gmail.com]
Sent: Wednesday, June 23, 2010 1:13 PM
To: Jim Fasola
Cc: Mitch Ward; Nick Tell; Portia P. Cohen; Richard P. Montgomery; Wayne Powell; David Lesser; Kathleen Paralusz; Martha Andreani; Sandra Seville-Jones; Richard Thompson; Laurie B. Jester; Nate Hubbard; Stephanie Hubbard
Subject: Misrepresentation by Staff in May 12 Minutes re Shade

Chairman Fasola
 Planning Commission
 City of Manhattan Beach
 Via Email

Chairman Fasola, for the Record,

In the minutes for the May 12 hearing on Shade, staff has misrepresented the testimony by Laurie Jester in response to two questions from Commissioner Lesser.

The incorrect passage can be found in the second paragraph at Page 3 of the minutes, which reads as follows:

"In response to a question from Commissioner Lesser, Acting Director Jester commented that a representative of the ABC indicated that the Type 47 license was the appropriate type of permit to fit the proposal and that the Type 70 would not work for the subject application. She commented that the Type 70 license is very restrictive. She indicated that it was clarified before the vote on the proposal was originally made by the Commission in 2005 that alcohol would be served on the terrace. She commented that the occupancy levels for the hotel that were established in 2006 by the Fire Department have always remained the same."

Mr Lesser asked Ms Jester three separate questions on three issues, for which I had previously submitted evidence:

1. In 2005, did Ms Jester misrepresent facts to the ABC and planning commission regarding the Type 47 license vs. the Type 70 license?
2. In 2005, did Ms Jester tell the planning commission that the terrace would not have alcohol service, but then slip into the resolution a terrace alcohol-enabling clause, just as the commissioners prepared to vote?
3. Did staff increase occupancy levels in the entertainment permits from October 2008 to December 2008?

Staff has merged Ms Jester's answers to the first two questions into a single misrepresentation of both, as evidenced by transcripts of the May 12 hearing.

Regarding Question 1, on May 12, Ms Jester testified at 2005 meetings, that the ABC stated they had only one license, the Type 47, for what Shade wanted, which was service to the general public. That directly conflicted with the Metlox Master Use Permit, which restricts alcohol service to registered hotel guests only. Consequently, at the ABC meetings in 2005, Ms Jester represented Mr Zisli's interests, not the requirements approved by the city council for

06/23/2010

*Distributed at
 6/23/10 PC meeting*

the Metlox hotel.

Regarding Question 2, on May 12, Ms Jester testified that the discussion with then-Commissioner Simon at the beginning of the May 2005 hearing on Shade involved the issue of serving alcohol in the Metlox Plaza area, not on the terrace, as my evidence proves. As per our input to the commission on findings, 18 June 2010, a transcript of Ms Jester's testimony from the May 2005 hearing shows without the slightest doubt that she and Mr Simon discussed the terrace alcohol service, not the Metlox Plaza outside the Shade premises, as she claimed at the May 12 hearing.

Consequently, the above quoted paragraph in the minutes misrepresents Ms Jester's answers to Mr Lesser's questions and needs correcting.

Furthermore, regarding the question about her 2005 testimony on terrace alcohol service, Ms Jester's answer on May 12 constitutes a continued misrepresentation of the issue, this time to the current commission.

I will present this information during the public participation item at the June 23 meeting.

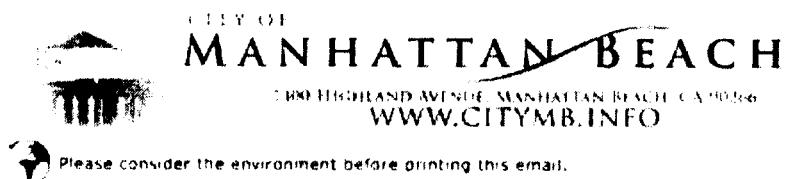
Don McPherson
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Manhattan Beach CA 90266
dmcphersonla@gmail.com
310.487.0383

Angela Soo

From: Laurie B. Jester
Sent: Wednesday, June 23, 2010 8:29 AM
To: Angela Soo
Subject: FW: Planning Commissions

10 copies for tonight PC

Laurie B. Jester
Community Development Acting Director
P: (310) 802-5510
E: ljester@citymb.info



From: John Strain [mailto:jstrain@ustaxlawyer.com]
Sent: Tuesday, June 22, 2010 8:31 PM
To: List - Planning Commission; Richard Thompson
Cc: Laurie B. Jester; Mike Zislis; Katie Krufft; Milo Bacic
Subject: Planning Commissions

Dear Commissioners and Ms. Jester:

On behalf of Shade Hotel, we are attaching a letter (and its enclosure) which responds to the most recent submission from Mr. Hubbard. I apologize for the late notice on this.

We look forward to finishing this chapter tomorrow night. Thanks for all of your efforts.

Laurie, I assume you will forward this to Mr. Hubbard and other interested parties.

Best Regards,

John A. Strain

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*Distributed at
6/23/10 PC Meeting*

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June 22, 2010

8867.022

By email

Ms. Laurie B. Jester
Community Development Acting Director
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266

Re: *Shade Hotel*
Planning Commission Meeting for June 23

Dear Laurie:

We have reviewed your Staff Report for tomorrow night's meeting. Thank you for all of the attention you have given this matter. Also, thank you for forwarding to us the email that Nate Hubbard sent to you and the Commissioners on Sunday.

Here are Shade's views of what the Planning Commission should do tomorrow night. This matter has dragged on long enough. We agree with your recommendation that the Planning Commission should now make a decision on the issues still before it. Then, the matter will go on to the City Council where it is likely to be the subject of further debate.

One of the open requests asks to confirm Shade's right to serve breakfast, lunch, and evening "small plates" in the Zinc lounge and on the terrace (and to post our menu). This should be non-controversial since no one has expressed any reason to deny this request. A second open issue is whether to increase – from 99 to 125 – the cutoff at which Shade is required to notify the City of upcoming events. Since the issue only involves administrative work for Shade and the City's employees, we are comfortable with either result. Of course, we prefer reduced paperwork. We believe these two items should be approved separately from other matters.

The principal controversial item is Shade's request to allow the Zinc Lounge to operate until 12:00 on Friday and Saturday night. These unremarkable hours are no more favorable than those applying to the rest of the Metlox Plaza (and are more restrictive than those applying to most establishments in the City). This seeks at most a grand total of two additional hours each weekend.

As part of such an amendment, Shade has expressed willingness to agree to an extraordinary set of restrictions and conditions. This could include installing at least three significant additional sound abatement improvements: a vestibule to the East; a

Ms. Laurie B. Jester
June 22, 2010
Page 2

retractable enclosure of the terrace to the South; and an interior barrier facilitating guests' ingress and egress at late hours to the West. Shade also was willing to install additional sound abatement panels on the Sky Deck, if the Planning Commission had agreed.

The detailed operating restrictions that have been proposed here frankly will make Shade Hotel a less appealing place for visitors and Manhattan Beach residents. We are aware of no similar establishment anywhere which must tell its guests to enter, leave or pick up their car out the back door. Our ability to host weddings and similar events is hogtied by unique restrictions on hours, music and normal celebratory sounds.

Why would Shade agree to such extensive costs and restrictions for such a small increment to its operating hours? The principal reason has been Shade's desire to have a peaceful relationship with all of its neighbors. Unfortunately, we have doubts this can be realized. For example, after the City obtained a sound study (at Shade's expense) establishing that Shade is in compliance with the Municipal Code's objective noise standards, Nate Hubbard and Don McPherson have shifted their complaints to subjective (non-measurable) rules. Also, the demands for restrictions on the Hotel's operations seem to grow day by day. While Mike Zislis has had some seemingly productive meetings with Mr. Hubbard (including those you have attended), those are followed by setbacks after Mr. Hubbard takes issues back to Don McPherson and others.

Shade continues to reassess the whole tradeoff involved in this still unfolding process. We reserve the right to withdraw our application at any time (either now or after the matter is appealed to the City Council) if the final conditions and restrictions are too unrealistic.

Also, some of Mr. Hubbard's interpretations of existing limitations are surprising. This suggests a particular need to scrutinize specific language of the proposed amendment to see how that might be misinterpreted. With that in mind, while we appreciate the thorough and professional job you did on the draft Conditions, we are requesting the Commission to make a few changes to your draft. For convenient reference, I have handwritten those on the enclosed copy of your draft. Most of our comments are clarifications of the stated terms.

One substantive comment relates to the hours of the Skydeck. We believe that the appropriate SkyDeck closing time (for events and on weekend nights) should be 11:00 (rather than 10:00), with alcohol service ending 20 minutes (not 60 minutes) before closing. This issue involves a major restriction on our ability to host weddings and other events (which is important not only for our revenue but for the community's enjoyment). Commissioners have indicated that they expect to rule against us on this request. Also, to be clear, Shade was willing to put this issue behind us if that could bring about a comprehensive agreement with those neighbors who have complained. However, such an agreement now seems out of reach. As things have now developed, we reserve the right to raise this issue at the City Council level.

Ms. Laurie B. Jester
June 22, 2010
Page 3

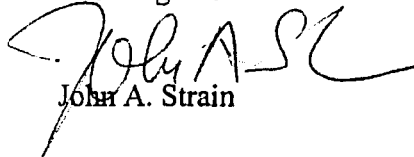
Micromanagement of Shade's business is not the proper role for a few neighbors, nor even for the Commission itself. Still, Mr. Hubbard's submissions to the Staff and the Planning Commission include efforts to control countless small details of Shade's business that are unrelated to any noise issues (as illustrated by his demands that Shade be required to pick up all glasses before its closing time). While the Staff's current draft properly declined to pick up that demand, we are troubled by a handful of other terms in that draft. For example:

1. Proposed Condition RC1-2 would preclude the public from attending "Special Events" at Shade. We believe that restriction should be removed, since it overlooks that each event may have unique features. Consider, for example, a local business owner or group which wants to host a mixer.
2. Proposed Condition RC2-9 would forbid any sound (such as voices), at any hour, if it "disturb[s] surrounding residents." This seemingly replaces a carefully drafted Municipal Code standard with an overly broad prohibition. Consider a baby crying or someone enthusiastically greeting an old friend at lunchtime.

One other comment must be repeated for the record. We have again read operative provisions of the Master Use Permit and its amendments related to the Hotel's current hours (namely, paragraph 29 and 30 of Res. 5770; and paragraphs 2 and 8 of PC Res. 05-08). Based on those controlling documents, we believe the currently approved hours on Friday and Saturday nights are the same as for the rest of the Metlox Plaza (i.e., midnight).

It is a shame that this matter is still not resolved despite all of your efforts. Unfortunately, living in close quarters inevitably involves some conflicts, especially when residential properties abut commercial zones. Shade has made a sincere and serious effort to take the reasonable concerns of all of its neighbors into account and will continue to do so regardless of the outcome of this matter. We deeply value our place as the premier hospitality venue in Manhattan Beach.

Best Regards



John A. Strain

JAS
Encl.

Cc(w/encl): All Planning Commission Members (by email)
Mr. Michael A. Zislis (by email)

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

CONDITIONS.

RC-1. Definitions.

RC1-1. Closed. Music off and lights turned up in all public areas. Terrace, courtyard, skydeck, Zinc bar and Lobby, and all public areas vacated, except for staff throughout, as well as registered guests in the Lobby only. All members of the general public, including special event and function guests who are not registered guests, shall be out of the hotel. In the Zinc bar and lobby, terrace, courtyard, skydeck and all public areas, without exception, on or before closing, staff shall collect all alcoholic beverages, including from registered guests, to comply with the ABC definition of closed, as "no sale, service, or consumption of alcoholic beverages."

RC1-2. Special event. An event ^{in which a third party} under contract ~~that~~ has exclusive use of one or more venues or a portion of a venue. Attendees at special events shall have ~~a~~ ^{all} written invitation from the host client. ~~The general public may not join nor participate in~~ special events. Special events include non-profit or charitable events such as Chamber events, Downtown Open House and Charity Education Wine ~~Auction.~~ ^{Event.}

RC1-3. Function. A "themed" function held periodically for the general public, such as, Oktoberfest, Halloween, New Years, Valentines, St Patrick's Day, AVP, Surf Festival, Mothers Day, Fathers Day and Six-Man. Functions shall not include "spillover" of the general public from day-to-day operations from the Zinc bar and lobby, or any other area, into the Courtyard.

RC1-4. Registered Guest. A guest who occupies a room overnight. Privileges for registered guests extend to their invitees only, and not the general public.

RC1-5. Invitee. Invited guests of a registered guest.

RC1-6. Marketing and Promotion. Any marketing, promotion or advertising, using any media, including but not limited to, fliers, newspapers, radio-TV, Internet, social ^{and} networking sites, email to the general public ~~and the Shade website~~. This does not include marketing and promotions to customers who have specifically signed up to be included on a Shade mailing, e-mailing or similar mass notification list.

RC1-7. Background music. Sound intensity anywhere in a room or venue not greater than 65 dBA, ~~or normal conversation for 4 people at a range of 3 to 5 feet, whichever~~ ^{less.}

RC1-8 Public Areas. Any public area or space where sales, service and consumption of alcoholic beverages is permitted.

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

RC-2. Entertainment and Noise Regulations

RC2-1. General- The Director of Community Development shall not reduce restrictions or conditions as set forth in this Amendment, without approval by the Planning Commission, with notice to property owners within a 300 foot radius with standard notice procedures.

RC2-2. Entertainment and amplified sound- Non-amplified music and sound is permitted in any venue, ^{including} for special events and functions, to the extent that the Noise standards of the MBMC are complied with. All amplified music and sound shall use the house system only and shall be limited to background music with the following exceptions;

1- The Courtyard may have one annual event, ^{function (for example,} Oktoberfest) with live amplified entertainment, from 4 to 8 PM.

2- ^{and Skydeck} The Courtyard may use amplification, other than the house system for background music and microphones, for wedding ceremonies only prior to 9 PM and not to exceed 30 minutes in length;

3- The Zinc bar and lobby may have amplified DJ's, live entertainment or music, other than background music. All doors leading to the outside shall remain closed. A maximum of 6 performers shall be permitted at any one time. Dancing is limited to a 15' by 20' area.

RC2-3. Terrace enclosure- A deployable means (glass or similar panels that roll or slide down from the top portion of the terrace) shall entirely enclose the terrace, including a closable south entrance that meets Building Safety and other City requirements. Existing walls shall have gaps acoustically sealed. The ceiling of the terrace shall have sound-absorbing fixtures installed. The enclosure and entire terrace area shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies. The terrace shall remain open at all times except, between 9 PM and 6 AM each day and when raining. Shade staff shall be responsible for enclosing and opening the terrace daily. If the terrace has drapes or other decorative features to enclose the area, they may only be closed during special events and when raining.

RC2-4. Front (East) Entry Vestibule- A permanent front entrance vestibule, bonded and sealed to the building, shall be constructed to enclose the front doors. The vestibule shall be acoustically sealed, designed and constructed to meet the City Noise consultants' acoustical standards consistent with their noise studies. The vestibule shall also meet all Building Safety and other City requirements, including but not limited to emergency egress and disabled access. Between 9:00 PM and 6:00 AM on Friday, Saturday, New Years Eve and Sundays before Memorial Day and Labor Day, the front entrance doors shall be closed and only operable through the interlock/double door vestibule. The hotel clerk or other hotel employee shall only allow passage for disabled, or registered hotel guests. All others shall use the west entrance. The ^e _(on for shade)

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

vestibule may also be operable with a hotel room key. Additionally, only one set of doors may be opened at any time.

RC2-5. Courtyard-Only special events and functions may use the courtyard. No general public gatherings permitted in the courtyard, and no "spillover" from the Zinc bar and lobby or other public areas.

RC2-6. Courtyard-bar corridor wall-A new acoustic moveable wall shall be installed to separate the interior courtyard from the corridor north of the lobby bar. After 9 PM Friday, Saturday, New Years Eve and Sundays before Memorial and Labor Day, and any day if the entry/exit queue is greater than 5 people for more than 10 minutes, both corridor walls (adjacent to the courtyard and the lobby bar) shall remain closed, unless there is a special event or function using both the Courtyard and Zinc bar/lobby. Whenever the Zinc bar and lounge has amplified sound, other than background music, after 9 PM the north acoustic wall shall remain closed. There shall be no sale, service or consumption of alcohol in the corridor when one or both moveable walls are closed.

(including DJs)

RC2-7. Skydeck- All amplified music and sound shall use the house system only. No ~~live~~ amplified music is permitted. Amplified sound is prohibited on the skydeck after 9 PM, except for background music. The hotel shall relocate house speakers nearer to floor-level, not atop glass windscreen posts. The location and number of the speakers shall be based on the recommendations from an audio specialist in cooperation with the City's noise consultant, and shall be designed to mitigate off-site noise impacts and maximize efficiency on-site.

RC2-9. Sound audibility- The volume of music, entertainment, group singing, or voice, whether or not amplified, may not be audible outside of the hotel facilities to the following extent. For any length of time, except for Oktoberfest, the noise may not dominate the background ambient noise, as defined in the MBMC noise regulations, ~~nor disturb surrounding residents~~. After cessation of alcohol service in any venue or for any event or function, only background music is permitted.

The one event in RC 2-2(1)

RC2-10. Temporary Use Permit- Special events and functions of more than 125 attendees require City notice and a temporary use permit.

RC2-11. Dancing- Dancing is limited to the Zinc bar/lounge in a 15-foot by 20-foot area. Dancing on skydeck and in Courtyard also permitted, but only for special events and functions-

RC2-12. Entertainment Permit- Each year, the hotel shall apply for an annual entertainment permit on or before March 1, in accordance with Condition 40 in Resolution 5770, Metlox Master Use Permit.

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

RC2-13. Resident notification- The hotel shall e-mail to residents who sign-up, the schedule of special events and functions sent to the City, *excluding client identification.*

RC2-14. Balconies- A permanent notice shall be placed on the doors to the hotel room balconies informing guests to be respectful of the neighbors at all times and to make no noise on the balconies or outside after 10:00 PM.

RC2-15 –Exterior Doors- All exterior doors to the public areas of the hotel facility shall be closed after 9:00 PM on Friday, Saturday, Sundays before Memorial Day and Labor Day, New Years Eve, and daily for all special events and functions.

RC-3. Hours for alcohol service

Alcohol service restricted to venues below; not permitted in any other public areas.

<u>Venue/Event/Services</u>	<u>Venue Closing Time (Closed); Open 6 AM- per Cond. 39, Reso. 5770</u>	<u>End of Alcohol Service, Before Closed, Minutes</u>
Zinc bar and lounge, Fri-Sat and Sundays before Memorial Day and Labor Day	Midnight	20
Zinc bar and lounge, Sun-Thu	11 PM	20
Terrace	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Conference (Green) Room(s)	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Special events	11 PM Sun-Thu; midnight Fri-Sat and Sundays before Memorial Day and Labor Day	20
Courtyard- Functions	10 PM	20
Skydeck	10 PM Sun-Thu. 11 PM - Fri-Sat.	60 20

Note 1. New Years Eve closed for all venues as permitted by MBMC- currently 1:00 AM

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

RC-4. General Conditions.

RC4-1. Substantial Compliance- The proposed changes shall be in substantial conformance with the plans submitted, and the project description as approved by the Planning Commission, subject to any special conditions set forth in this amendment. The design, specifications and layout of sound mitigation measures is subject to further review and approval by the Director of Community Development, and the Planning Commission as determined to be necessary by the Director of Community Development. Any substantial deviation from the approved plans, or project description, shall have review and approval by the Planning Commission.

RC4-2 Occupancy Limits- Required occupancy loads shall not be exceeded and required access and exits shall remain unobstructed at all times. The exact occupancy numbers stated below are required to be posted on the site:

- Roof Deck – 92
- Lobby Bar (Zinc Lounge) – 159
- Patio to south of Zinc Lounge- 47
- Courtyard Area – 151
- Conference Room - 44

RC4-3- Terrace Use- The terrace shall not be a conditioned interior space as defined by the Building Code.

RC4-4 Public property clean up- The Shade staff shall monitor the area so that Shade patrons do not litter adjacent public property, including but not limited to the sidewalk, street, Metlox Town Square and all other public areas at Metlox. The hotel staff shall police and promptly clean up all areas with any litter and spills after all special events and functions. Public Works may bill Shade for any special event and function related public property clean-up costs.

RC-5. Ingress-Egress Control

RC5-1. Valet- The Shade valet service shall relocate away from the Shade east or south entrances. ~~The podium shall be located so that it has no line of sight to residences.~~

Everyone, except for registered hotel guests, shall be prohibited from picking up their vehicles from the Shade front (east) entrance after 9 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after special events and functions any day of the week. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian accessways free and accessible to the general public, subject to approval of the Director of Community Development.

G:\PLANNING DIVISION\Temporary (file sharing)\Bobby\Metlox\Shade- hours, restaurant, special events, operations MUP A- 2009\PC 6-23-10\Exhibit A- Shade draft Conditions-6-23-10.doc

During these hours,

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

RC5-2. Taxis- Hotel employees shall discourage the public from using taxis on Valley Dr after 9 PM. Taxi pickups and drop-offs for the general public at the Shade entrance shall be prohibited after 9 PM. Everyone, except for registered hotel guests, shall be directed to the taxi stand on Morningside Drive and 13th Street, after 9 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve and after special events and functions any day of the week. Hotel staff may call for a taxi to pickup registered guests at the entrance at any time.

RC5-3. Entry-Exit Queue- The hotel shall locate the entry and exit queue at the west side of the building as required in condition XXX, but the queue shall not extend past the south or north sides of the building .

RC5-4. West entry-exit- After 9:00 PM ^{after 9:00 P M} on Friday, Saturday, Sundays before Memorial Day and Labor Day, New Years Eve, and for special events, and functions, everyone except registered hotel guests and disabled shall use the west door, opening on to the Metlox Plaza, to enter and exit the hotel. The front east door that opens onto Valley Drive, and the south terrace doors shall not be used for entry and exit at these times, except registered hotel guests and disabled may use the front east door.

On Sunday through Thursday, if more than five patrons are waiting for more than 10 minutes to enter, staff shall establish the queue at the west side of the building. Employees shall close and monitor the front (east) entry door as required to ensure access only by registered hotel guests and the disabled, and that everyone else uses the west door. Employees shall remind the patrons as they depart to respect the neighbors and to minimize noise and disturbance.

The hours and days may be administratively modified in the annual entertainment permit to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.

RC5-5. Staff parking- The hotel shall ^{instruct} ensure that their employees, contract employees, contractors servicing events, and all others providing services to the Hotel shall not ^{to} park on the public streets east of Valley Drive, in the residential areas or in Parking Lot 8 (the lot in the median of Valley and Ardmore). All parking shall be on the Metlox site or in other public parking structures or lots such as Lot 3.

RC5-6. Buses- Any large transportation such as buses, shuttles, or recreational vehicles shall not use the hotel drop off area on the east side after 9 PM daily, but shall load and unload off of Morningside Drive or 13th Street. The vehicles shall observe and comply with all parking regulations in these areas.

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

RC5-7. Town Square- Special Events and functions may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The applicant shall work cooperatively with the Management Co, landlord, any security personnel and the City to ensure that Shade facility patrons are not gathering in the Town Square and public areas outside of the hotel and disturbing the neighbors after the hotel public areas are close. The doorman or other Shade employee shall ensure that patrons do not leave the hotel facility premises with alcoholic beverages.

RC5-8 Front Drop Off- The drop off driving lane, in front of the hotel off Valley Drive, including the area at Valley and "12th Walk" by the bollards shall remain open, unobstructed and free of vehicles at all times, except for vehicles transitioning during valet drop off and pick up.

RC-6 Food service.

RC6-1. Food Service- The hotel may serve food in all public areas during the hours consistent with the service of alcohol. This shall not preclude 24-hour room service.

RC-7. Promotion and Advertising.

All these are up to the Planning Commission- Neighbors suggestions in yellow and Staff suggestions in blue.

RC7-1. Marketing-

Any marketing and promotion of the facility will be first and foremost as a hotel use. The availability of the hotel for special events and functions shall not be marketed as the primary use. The hotel website may have pages that describe various venues, including costs and availability, but may not advertise individual functions or periodic events such as pool parties.

Any marketing and promotion of the facility will be first and foremost as a hotel use. The availability of the hotel for special events and functions shall not be marketed as the primary use. The hotel website may have pages that describe various venues, including costs and availability, but may not advertise pool parties.

RC7-2. Marketing-Happy Hour

All hotel marketing, advertising, and promotions shall be limited to attracting potential hotel guests and event planners. The Zinc bar/lounge, terrace and Skydeck will not be marketed to the general public as separate hospitality attractions. All advertising, marketing and promotions will be focused on potential hotel guests and not the general public.

EXHIBIT A- PC 6-23-10 SHADE STAFF DRAFT CONDITIONS

The hotel shall not advertise, market or promote drink or "happy hour" type of specials. Primary advertising and marketing shall be for the hotel, food and special events. Marketing and promotion for the bar and functions shall be secondary.

RC7-3. Menu Posting - The hotel shall not post any drink or food menus or any drink or food signage outside of the hotel.

The hotel may post drink or food menus or signage outside of the hotel, with the exception of no posting of any drink or "happy hour" type of specials.

RC7-5 Review. All provisions of the Master Use Permit Amendment are subject to review by the Community Development Department 6 months after completion of improvements and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Master Use Permit Amendment for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

Laurie B. Jester

From: Nate Hubbard [natehubz@mac.com]
Sent: Monday, June 21, 2010 2:13 PM
To: List - Planning Commission; Laurie B. Jester; Richard Thompson; Rod Uyeda; Bryan Klatt
Subject: Typo Error Correction in Our Input Yesterday

Commissioners,

We found a typo in our input to you yesterday, which needs correcting.

On Page 4, in the item on definition for 'invitee', in the bolded, last sentence, make the following corrections:

We request the planning commission to restore our definition of ~~guest~~ 'invitee', as per the change indicated in Exhibit AA, ~~RC1-5~~ RC1-4.

Thanks, Nate

*Distributed at
6/23/10 PC Mtg.*

06/23/2010

Angela Soo

From: Laurie B. Jester
Sent: Monday, June 21, 2010 11:07 AM
To: Angela Soo
Subject: FW: Fourteen Shade Conditions with Conflicts Needing PC Resolution
Follow Up Flag: Follow up
Flag Status: Red

Please print out 10 color copies of e-mail and attachment for PC meeting

Laurie B. Jester
Community Development Acting Director
P: (310) 802-5510
E: ljester@citymb.info



From: Nate Hubbard [mailto:natehubz@mac.com]
Sent: Sunday, June 20, 2010 4:55 PM
To: List - City Council; List - Planning Commission
Cc: Richard Thompson; Laurie B. Jester; Liza Tamura
Subject: Fourteen Shade Conditions with Conflicts Needing PC Resolution

Planning Commissioners
City of Manhattan Beach
Via Email

Subject: Fourteen Shade Conditions Needing PC Resolution

Commissioners, for the record, including attachment,

In the attachment, we submit a four-page tabular presentation of fourteen staff conditions, with which the Shade neighborhood has a problem. The table provides our recommended deletions and insertions marked in red, under change-control. If you accept the changes or something similar, that will resolve the issues raised in the staff report regarding conditions in the proposed amendment to the Metlox Master Use Permit.

Many other issues exist with the incomplete and deficient resolution, which staff wants you to pre-approve, before they deliver their product. We oppose approval of the staff conditions as a surrogate for the future resolution that must meet the requirements of the municipal code.

Our attachment provides the following conclusion:

06/21/2010

Staff's draft resolution has four major deficiencies:

- No findings to comply with MBMC 10.84.060 A. 2. and MBMC 10.84.070 B
- No building plans for the full terrace enclosure and lobby-door vestibule
- No entertainment permit with disturbance-controlling conditions needing administrative management
- No evidence to show that recommended entitlements, such as over doubling general-public patrons throughout the hotel, will not negatively impact adjoining land uses.

Consequently, we request the planning commission to take the following actions:

1. Adopt findings similar to those we proposed in our input, 17 June 2010
2. Resolve the conflicts in contested conditions, as recommended in our attachment Exhibit AA
3. Direct staff to task Shade for plans suitable to apply for a building permit
4. Direct staff to prepare a revised entertainment permit consistent with the proposed amendment to the Metlox Master Use Permit, Resolution 5770
5. Direct staff to bring back a complete resolution on July 28 or later.

We apologize for providing so much material for you to review at such a late date. I have participated in negotiations with Laurie Jester and Mike Zislis, starting six weeks ago. We had two meetings, May 21 and May 26, respectively. I have not heard from Mike since the last meeting, so assumed we had an agreement on conditions, with four areas of disagreement.

Not so, which explains why we have so much material for you to consider.

Last Monday, I received an email from Laurie with a real eye-opener. They want to open the courtyard and skydeck to general public functions, such as AVP, Six-Man and Halloween, which can over double the general-public patrons, from 206 to 409, for any day that Mike wants to declare a function. Neither the courtyard nor skydeck has any noise mitigation proposed, nor has Behrens analyzed the noise.

The Friday-night staff report delivered another shock, actually a series of shocks. The staff draft conditions contain many changes that create loopholes in the conditions on which we agreed last month. The most important involves the definition of 'closed' for the bar.

At the May 12 hearing, commissioners deleted the sound wall required by the current use permit, between the Zinc bar and lobby. Consequently, we had to provide a definition of 'closed' that would permit patrons to remain in the bar afterwards. The Long Beach ABC provided us with their definition of closed, as "no sale, service or consumption of alcohol." We adopted that to the Shade scene by requiring "all glasses, bottles and drinks" collected before close. MBPD can easily determine whether Shade complies, simply by inspecting the premises after bar close.

Our definition of 'closed' survived six weeks of review, until Friday night, when we read that staff had struck our "all glasses, bottles and drinks", and replaced it with "all alcoholic drinks". MBPD will not sniff-check for alcohol in the hands of 100-150 patrons partying in the Zinc bar an hour after close, as they do now.

It took us a lot of work to filter all the changes made by staff into a document that you can use to resolve

the conflicts in the fourteen conditions. The narrative runs an easily-read four-plus pages and the Exhibit AA table another four-minus pages. We believe with these tools, you can resolve the issues with the conditions at the June 23 hearing.

The other deficiencies in the inadequate draft resolution will take longer.

I have a long-planned vacation next month, delayed a couple days to support the June 23 hearing. I cannot support a June 14 planning commission meeting nor a July 20 city council appeal, so please schedule the next hearing on the resolution for July 28 or after.

Staff and Shade have taken eight months since the October 28 hearing to accomplish very little, other than an incomplete resolution, a few annotations of mitigation measures on existing building plans, and some analyses run on the already-configured acoustics program.

Time certainly is not of the essence in the Shade application.

Thanks,

Nate Hubbard
1300 N Ardmore Drive
natehubz@mac.com

SHADE NEIGHBORHOOD REBUTTAL OF JUNE 23, 2010 STAFF REPORT

SUMMARY.

We have more confidence than staff that the planning commission can decide on a resolution that has findings, conditions, building plans and an entertainment permit generally acceptable to the neighborhood.

Although staff submitted an incomplete draft resolution for the June 23 hearing, they want the commission to pre-approve their eventual product. We oppose this premature approval of a partial resolution, which presumably the commissioners will substantially revise.

Staff altered the agreed-upon conditions, as they existed Thursday, June 17. As result, with this input, we must provide a tabular comparison of staffs' and our newly contested conditions. If the commissioners reinstate the agreed upon conditions, as those items stood Thursday, then prudence dictates that staff brings back the corrected resolution for approval.

Since the May 12 hearing, Nate Hubbard participated in two negotiation meetings with Mike Zislis and Laurie Jester, on May 21 and 26, respectively. Their discussion addressed the functional structure of our proposed use permit, submitted in December 2009.

After the last meeting, Mike stated his attorney must review the negotiated document.

On June 14, we received staff's comments on the negotiated document, which the staff report has as unidentified Exhibit B. The red changes indicate those agreed to by Nate at the May 26 meeting, which we resubmitted to staff that same day. The blue changes in Exhibit B correspond to staff's subsequent comments we received Monday, June 14.

The pink changes in Exhibit B correspond to our rebuttal submitted Wednesday morning, June 16, which Nate and Laurie discussed by phone on Thursday.

We consider Exhibit B with red changes and blue changes not struck-out as the negotiated document, because the record includes no additional input from Shade. Our pink changes in Exhibit B correspond to disagreements that existed, as of Thursday June 17.

Regrettably, the draft conditions in the staff report posted Friday contain new language, creating many loopholes. Among other intensifications, these loopholes open the courtyard to the general public, allow special events guests to use the front entrance after 9 PM, and render enforcement criteria impossible. Lack of enforceable conditions will result in Shade continuing to violate use permit requirements, most importantly, bar closing, as they do now.

Considering that four weeks have passed without input from Shade, since the last meeting on May 26, we believe that the new legal loopholes introduced in the staff report posted Friday constitute a complete abrogation of negotiation in good faith.

In our submission to the commission on Thursday, we identified unambiguous and easily-determined criteria for enforcement as one of three major objectives for the June 23 meeting. It did not surprise us that staff and Shade seeded the draft conditions with loopholes to compromise enforcement, but we do resent that they did not negotiate in good faith.

Acceptance of our proposed findings and inclusion of the revised entertainment permit as part of the resolution package constitute our other two high-priority objectives for June 23.

In the discussion below, we provide the commission a condition-by-condition breakdown of items for which disagreement exist, both for the few real differences of opinion and for the many new loopholes introduced, since we received staff's comments last Monday.

As stated above, we believe the commission can resolve these problems on June 23.

SHADE NEIGHBORHOOD REBUTTAL OF JUNE 23, 2010 STAFF REPORT

DISCUSSION.

As of the negotiated agreement on May 21, we and Mike Zislis had only a small handful of contested areas. Regrettably, that agreement has deteriorated substantially, without any further negotiation with Shade or inputs from them. Starting Monday June 14, staff has changed terms to create the following major new problems:

- Includes a loophole in our ABC-based definition of 'closed', which will make determination of bar closure by MBPD impossible
- Permits the general public to party in the courtyard and dance on the skydeck, at any Shade-designated function. They can schedule any day of the week as a function, adding an additional 243 patrons to the 206 permitted in Zinc and the terrace.
- Includes a loophole in our definition of invitee, the guest of a registered guest, which will allow special event guests to use the lobby entrance and pickup cars at the front driveway after 9 PM.

In addition to above three problems, staff opposes planning commission approval of the initial revised entertainment permit and future changes by staff in the permit that will intensify Shade operations. In the past four years, staff has only changed the entertainment permit in order to increase intensity of use, such as numbers of entertainers and occupancies.

Staff's incomplete resolution has another deficiency; no findings, as required in the staff report, at Pg 7, first full paragraph, second sentence. We recently provided the commission with proposed findings based on documented facts in the public record. We have carefully crafted these findings to support the conditions that the commission must impose to abate the Shade public nuisance, as required by MBMC 10.84.060 A. 2. and MBMC 10.84.070 B.

Staff's plan to orally present their findings at the June 23 hearing denies us the right to review and comment on them, before commission approval.

We place the above systemic deficiencies of staff's incomplete resolution in context with a critically-important example, their recommendation to corrupt our ABC-based-definition of 'closed', so as to make it unenforceable by MBPD.

Staff's loophole to make definition of 'closed' unenforceable.

Because commissioners deleted the sound wall between the Zinc bar and the lobby, as required in the current use permit, we must define closing of the Zinc bar differently than vacating the premises. Without the sound wall, Zinc and the lobby share a common area open 24 hours a day. As we have repetitively shown, MBPD has gone on record that they cannot enforce closing, under those circumstances.

We have a crucial clause in our new definition of 'closed', as follows: *In the Zinc bar & lobby, terrace, courtyard, and skydeck, and all public areas without exception, staff shall collect all glasses, bottles, and drinks, including from registered guests, to comply with the ABC definition of closed as, "no sale, service, or consumption of alcoholic beverages."*

This clause got wordsmithed in the negotiation meetings of May 21 and 26, the first one attended by the Shade attorney. It survived intact from staff's comments on June 14. After six weeks of review, however, before posting the conditions on the Internet, staff changed a few words that totally obviate the enforceability of our definition of 'closed'.

SHADE NEIGHBORHOOD REBUTTAL OF JUNE 23, 2010 STAFF REPORT

They corrupted our definition to read, *In the Zinc bar & lobby, terrace, courtyard, and skydeck, and all public areas without exception, staff shall collect all glasses, bottles, and drinks alcoholic beverages, including from registered guests, to comply with the ABC definition of closed as, "no sale, service, or consumption of alcoholic beverages."*

The commissioners viewed the video of the apologetic MBPD officer investigating the Shade disturbance on July 18, 2009, with 125-150 Zinc patrons still partying in the bar, over an hour after alcohol cutoff. Does anyone believe that officer would go around sniffing patron's drinks to determine whether they contained alcohol?

Staff has rendered our 'closed' definition unenforceable. As we proved May 12, with an 11 PM closing, Mike Zislis operates Zinc to midnight and beyond. With a midnight closing and no way to enforce it, he will operate the bar to 1 AM, what he applied for in April 2009.

We request the planning commission to reinstate our definition of 'closed', to make it enforceable by MBPD, as shown in Exhibit AA, RC1-1.

Summary of Residents Comments on Staff Report Conditions, Exhibit AA.

We take exception to many statements in the staff report per se, such as their error that we do not accept midnight hours for the Sundays preceding Memorial Day and Labor Day. The comparison of staff's and our contested conditions take precedence, however, so we proceed with the summary of Exhibit AA, Proposed Changes to Contested Conditions.

We request that the commissioners consider the comparison of contested conditions in Exhibit AA on an item by item basis. Presumably, with the tabular organization provided, the commissioners can work their way through the list in relatively short time. Exhibit AA lists fourteen of staff's conditions, which we have edited with change control strike-outs and insertions. Beneath each of the conditions, we provide a few lines of rationale for the change we propose.

We reiterate the major problems staff has introduced with their late changes to the negotiated conditions:

- They have rendered the definition of 'closed' as unenforceable
- They have opened the courtyard and skydeck to the general public for any Shade-designated function
- They changed the definition of invitee, so that special event guests can use the lobby door and driveway for egress and car pick-up
- They deny the planning commission the right to approve the revised entertainment permit and to approve any subsequent intensification changes that staff makes later.

We have described the 'closed' definition issue above, and summarize the others below.

General-public function use of the courtyard and skydeck.

The PC Resolution 05-08, at New Conduction 8, permits alcohol service at "events and functions," but defines neither. Through use, 'special event' has acquired a definition that we formalized, as stated in the staff report condition, RC1-2.

Neither the Metlox Master Use Permit nor its PC 05-08 amendment used the word 'function', except as noted above. We defined it as a themed party event for the general public, held periodically, such as AVP, Six-Man, and Halloween, as stated in the staff report condition RC1-3.

SHADE NEIGHBORHOOD REBUTTAL OF JUNE 23, 2010 STAFF REPORT

Last week, staff proposed a new requirement not in Shade's application, to open the courtyard and skydeck to functions that will over double the allowable occupancy of general public patrons permitted in the hotel, from 206 to 449.

Neither the courtyard nor skydeck have any noise mitigation proposed, so staff cannot possibly substantiate the findings necessary that their intensification of general public use will not materially impact the adjoining residential land uses.

Because Shade can declare any day a function day, the commissioners should consider 'function' as equivalent to 'general public'. Shade can anticipate the major nightclub events and obtain temporary permits from staff, as required.

Staff's action constitutes a flip-flop from their testimony at the June and July hearings last year, when they opposed the folding door across the courtyard entry, because it might result in additional patrons drinking in the corridor north of Zinc, a mere splash compared to the additional over 200 patrons they propose now.

The planning commission has never considered letting general public functions use the courtyard and skydeck (dancing on the skydeck corresponds to using the skydeck.) The staff report for the May 12 hearing (Exhibit BB) shows that the Shade application at that time considered the courtyard for special events only.

We request the planning commission to deny staff's recommendation to open the courtyard and skydeck to general public functions. That will resolve four problems in the 14 conditions listed as conflict areas, as shown in Exhibit AA, RC2-5, RC2-6, RC2-11 and RC3.

Staff loophole in our definition of invitee, guest of a registered guest.

We defined 'invitee' in staff report RC1-4 and RC1-5 as having privileges of a registered guest only as explicitly stated in the amendment. When posting the conditions on the Internet Friday, staff broadened our definition of invitee to have the same privileges as registered guests. Our invitee definition survived a six-week review, only to get changed in the final hour.

For weddings, and most other special events, Shade requires the client to book rooms. Consequently, at special events, all guests would have registered-guest privileges, such as egress at the lobby and car pickup there. Guests leaving special events have caused many disturbances. Staff's recommendation to grant special event guests the same privileges as overnight guests will greatly diminish the effectiveness of making patrons exit the west door.

We request the planning commission to restore our definition of guest, as per the change indicated in Exhibit AA, RC1-5. The entertainment permit can grant additional privileges to invitees, if necessary.

Denial of planning commission approval of the entertainment permit.

In Exhibit AA, RC2-1, staff recommends that the planning commission be denied the right to approve the initial entertainment permit and any future staff changes in the permit that increase Shade intensification.

As seen in Exhibit AA, RC2-2 and RC2-11, staff proposes to cast in concrete as entitlements, two entertainment conditions that currently reside in entertainment permit, and which should stay there. The entertainment permit should contain all conditions related to entertainment and other disturbance sources, to enable administrative control.

SHADE NEIGHBORHOOD REBUTTAL OF JUNE 23, 2010 STAFF REPORT

The commissioners should require that they have the approval power for the entertainment permit and move all appropriate conditions into that permit. This action will resolve three of the 14 problem areas listed in Exhibit AA, as RC2-1, RC2-2 and RC2-11.

CONCLUSION.

Staff's draft resolution has four major deficiencies:

- No findings to comply with MBMC 10.84.060 A. 2. and MBMC 10.84.070 B
- No building plans for the full terrace enclosure and lobby-door vestibule
- No entertainment permit with disturbance-controlling conditions needing administrative management
- No evidence to show that recommended entitlements, such as over doubling general public patrons throughout the hotel, will not negatively impact adjoining land uses.

Consequently, we request the planning commission to take the following actions:

1. Adopt findings similar to those we proposed in our input, 17 June 2010
2. Resolve the conflicts in contested conditions, as recommended in Exhibit AA
3. Direct staff to task Shade for plans suitable for a building permit
4. Direct staff to prepare a revised entertainment permit consistent with the proposed amendment to the Metlox Master Use Permit, Resolution 5770
5. Direct staff to bring back a complete resolution on July 28.

Because of long-standing vacation plans, Nate Hubbard, the Shade neighborhood facilitator, cannot support a July 14 planning commission meeting nor a July 20 appeal to the city council.

EXHIBIT AA

RESTORATION OF STAFF CHANGES TO NEGOTIATED CONDITIONS, PLUS AREAS OF CONTENTION, AS OF JUNE 17

Restored and Edited Conditions in Conflict
<p>RC1-1. <u>Closed.</u> Music off and lights turned up in all public areas. Terrace, courtyard, skydeck, Zinc bar and Lobby, and all public areas vacated, except for staff throughout, as well as registered guests in the Lobby only. All members of the general public, including special event and function guests who are not registered guests, shall be out of the hotel. In the Zinc bar and lobby, terrace, courtyard, skydeck and all public areas, without exception, on or before closing, staff shall collect all glasses bottles and drinks alcoholic beverages, including from registered guests, to comply with the ABC definition of closed, as "no sale, service, or consumption of alcoholic beverages."</p>
<p>Restores 'closed' definition to enforceable and easily determined criterion. MBPD cannot enforce staff change. See the narrative for a detailed history of this condition since the May 12 hearing. See Exhibit CC for the ABC letter defining 'closed'.</p>
<p>RC1-2. <u>Special event.</u> An event under contract that has exclusive use of one or more venues or a portion of a venue. Attendees at special events shall have a written invitation from the host client. All special events shall pay charges consistent with those for other special events of similar nature and scheduling. The general public may not join nor participate in special events. Special events include non-profit or charitable events such as Chamber events, Downtown Open House and Charity Education Wine Auction.</p>
<p>Shade can create faux special events for the general public, if not required to charge consistent with real special events.</p>
<p>RC1-4. <u>Registered Guest.</u> A guest who occupies a room overnight. Privileges for registered guests extend to their invitees only as explicitly stated in this amendment, and not the general public. Registered guests may have invitees in their rooms and lobby.</p>
<p>Shade generally requires special event hosts to rent a room. The staff change would extend registered guest privileges to special event guests, such as picking up their cars at the lobby. The entertainment permit can expand invitee privileges invitees, if required.</p>
<p>RC2-1. <u>General-</u> The Director of Community Development shall not reduce restrictions in the entertainment permit or conditions as set forth in this Amendment, without approval by the Planning Commission, with notice to property owners within a 300 foot radius with standard notice procedures.</p>
<p>The staff version of this condition does not make sense. The restored version requires planning commission approval to change the entertainment permit such that it reduces restrictions on Shade.</p>
<p>RC2-2. <u>Entertainment and amplified sound, subparagraph 3</u></p> <p>3-The Zinc bar and lobby may have amplified DJ's, live entertainment or music, other than background music. All doors leading to the outside shall remain closed. A maximum of 6 performers shall be permitted at any one time. Dancing is limited to a 15' by 20' area.</p>
<p>All entertainment conditions should be in the entertainment permit, as currently the case. Placing them in the use permit makes them an entitlement that staff cannot reduce administratively to control disturbances.</p>

EXHIBIT AA

RESTORATION OF STAFF CHANGES TO NEGOTIATED CONDITIONS, PLUS AREAS OF CONTENTION, AS OF JUNE 17

Restored and Edited Conditions in Conflict
RC2-5. Courtyard -Only special events and functions may use the courtyard. No general public gatherings permitted in the courtyard, and no "spillover" from the Zinc bar and lobby or other public areas.
Functions allow the general public to use the courtyard, formerly restricted to special events only, See the discussion on functions
RC2-6. Courtyard-bar corridor wall -A new acoustic moveable wall shall be installed to separate the interior courtyard from the corridor north of the lobby bar. After 9 PM Friday, Saturday, New Years Eve and Sundays before Memorial and Labor Day, and any day if the entry/exit queue is greater than 5 people for more than 10 minutes, both corridor walls (adjacent to the courtyard and the lobby bar) shall remain closed, unless there is a special event or function using both the Courtyard and Zinc bar/ lobby. Whenever the Zinc bar and lounge has amplified sound, other than background music, after 9 PM the north acoustic wall shall remain closed. There shall be no sale, service or consumption of alcohol in the corridor when one or both moveable walls are closed.
Ten-minute waiting time condition not enforceable; Shade will use as a loophole excuse not to move the queue. Delete 'function', as per description of the 'function' issue in the narrative.
RC2-8. Penthouse Restrictions. The penthouse shall not be used for special events or functions. Use of the penthouse is limited to registered hotel guests and their invitees, not to exceed a maximum of eight (8) occupants.
Staff originated this condition in their conditions emailed to us on Monday June 14. Originally, they identified the penthouse item as RC7-4. See staff report Exhibit B, which contains our red and pink markups, as well as staff's blue markups. On Shade's Internet site, a patron identified the penthouses as a place where Shade lets the general public drink and party after the bar closes. Consequently, we believe this condition on the penthouse originated by staff last week should be included.
RC2-11. Dancing -Dancing is limited to the Zinc bar/lounge in a 15-foot by 20-foot area. Dancing on skydeck and in Courtyard also permitted, but only for special events and functions-
All entertainment conditions should be in the entertainment permit, as currently the case. Placing them in the use permit makes them an entitlement that staff cannot reduce administratively to control disturbances.

EXHIBIT AA

RESTORATION OF STAFF CHANGES TO NEGOTIATED CONDITIONS, PLUS AREAS OF CONTENTION, AS OF JUNE 17

Restored and Edited Conditions in Conflict		
RC-3 Hours of Alcohol Service.		
Hours for alcohol service restricted to venues below; no other spaces permitted.		
Venue/Event/Services	Venue Closing Time; Open 6 AM, per Cond. 39, Reso. 5770	End of Alcohol Service, Before Closing, Minutes
Zinc bar and lounge, Fri-Sat	Midnight (Note 1)	20
Zinc bar and lounge, Sun-Thu	11 PM (Note 1)	20
Terrace	Same as Zinc bar and lounge	20
Conference (Green) Room(s)	Special events only; no public (Note 1)	Same as special events
Skydeck	10 PM; no exceptions (see Note 2)	60
Courtyard Special events	Same as special events	Same as special events
Courtyard Functions	10 PM	20
Special Events (Note 1)	11 PM Sun-Thu; midnight Fri-Sat	20

Note 1. New Years Eve closed for all venues permitted by MBMC-currently 1 AM. On Sundays preceding Memorial Day and Labor Day, the Zinc bar, terrace and courtyard special events may remain open until midnight.

Note 2. Skydeck closes at 10 PM, without exception. No one except staff permitted on the skydeck after 10 PM, including New Year's Eve.

The staff version permitted the general public to party in the courtyard and elsewhere, under guise of 'function'. Staff version also permitted patrons on skydeck until 1 AM New Years Eve. We have deleted staff's intensification of equating functions to special events. We do not permit patrons on the skydeck any time after 10 PM, including New Year's Eve.

RC4-2 Occupancy Limits DELETED IN ENTIRETY
Occupancy limits should not be made entitlements, in case of safety standard changes or new construction. Staff made this point at the May 12 hearing, that occupancy limits should not be included in the entertainment permit
RC5-2. Taxis -Hotel employees shall discourage the public from using taxis on Valley Dr after 9 PM. Taxi pickups and drop-offs for the general public at the Shade entrance shall be prohibited after 9 PM. Everyone, except for registered hotel guests, shall be directed to the taxi stand on Morningside Drive and 13th Street, after 9 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve and after special events and functions any day of the week. Hotel staff may call for a taxi to pickup registered guests at the entrance at any time.
Deleted clause contradicts second sentence, which states taxi pick-up and drop-off prohibited after 9 PM.

EXHIBIT AA

RESTORATION OF STAFF CHANGES TO NEGOTIATED CONDITIONS, PLUS AREAS OF CONTENTION, AS OF JUNE 17

Restored and Edited Conditions in Conflict
<p>RC5-4. <u>West entry-exit</u>-After 9:00 PM on Friday, Saturday, Sundays before Memorial Day and Labor Day, New Years Eve, and for special events, and functions, everyone except registered hotel guests and disabled shall use the west door, opening on to the Metlox Plaza, to enter and exit the hotel. The front east door that opens onto Valley Drive, and the south terrace doors shall not be used for entry and exit at these times, except registered hotel guests and disabled may use the front east door. On Sunday through Thursday, if more than five patrons are waiting for more than 10 minutes to enter, staff shall establish the queue at the west side of the building. Employees shall close and monitor the front (east) entry door as required to ensure access only by registered hotel guests and the disabled, and that everyone else uses the west door. Employees shall remind the patrons as they depart to respect the neighbors and to minimize noise and disturbance.</p>
<p>Ten-minute waiting time not enforceable. Shade will use as an excuse not to move the queue to the west door.</p>
<p>RC-7. <u>Promotion and Advertising, RC7-1, RC7-2, and RC7-3.</u> As per the staff report, the planning commission should provide direction as to what they want regarding conditions on promotion and advertising.</p>

EXHIBIT BB

TABLE FROM STAFF REPORT, 12 MAY 2010 SHADE HEARING, SHOWING APPLICATION RESTRICTED COURTYARD TO SPECIAL EVENTS ONLY

SHADE HOTEL HOURS OF OPERATION- INTERIOR COURTYARD & ROOFTOP DECK				
LOCATION	CURRENT USE PERMIT	APPLICANT'S PROPOSAL 10/28/09	APPLICANT'S PROPOSAL 5/12/10	NOTES
Interior Courtyard- Special Events Only	<ul style="list-style-type: none"> • Sunday-Thursday 10:30 PM- Last drink served. • Sunday-Thursday 11:00 PM- Closed 	<ul style="list-style-type: none"> • Sunday-Wednesday 11:00 PM- Closed • Thursday 11:30 PM- Closed • Friday-Saturday and Nights Before Holidays 12:00 AM midnight- Closed 	<ul style="list-style-type: none"> • 12:00 AM Midnight- Closed Everyone to be out of the public areas except staff. <ul style="list-style-type: none"> • 1:00 AM New Years Eve- Closed 	<ul style="list-style-type: none"> • Area for special event use only. • Music allowed- Harp, violin and similar instruments- no live bands. • Oktoberfest only, live band- 4 to 8 PM, one Sunday annually. • Chamber, Open House, and other occasional Community events with local school bands, choir or similar.
	<ul style="list-style-type: none"> • Friday-Saturday 11:30 PM- Alcohol service stops. • Friday-Saturday 12:00 AM midnight- Closed 			
Skydeck/ Rooftop Deck	<ul style="list-style-type: none"> • Daily 9:00 PM- Alcohol service stops. • Daily 10:00 PM- Closed 	<ul style="list-style-type: none"> • Sunday-Thursday 10:00 PM- Closed • Friday-Saturday and Nights Before Holidays 11:00 PM- Closed 	<ul style="list-style-type: none"> • 9:00 PM- No further use of microphone. • 10:30 PM- Last call for drinks, lights turned up and music off. • 11:00 PM- Closed. Everyone to be out of the public areas except staff. 	<ul style="list-style-type: none"> • Music and all sound piped in through house system only, no dj's, and no live music. Background music only.



3950 Paramount Blvd., Suite 250
Lakewood, CA 90712
(562) 982-1337

May 11, 2010

Don McPherson
1014 1st Street
Manhattan Beach, Ca 90266

Dear Mr. McPherson,

This letter is in response to your letter dated April 26, 2010 where you posed the following questions:

- (1) Can a hotel with a Type 47 general license exclude the general public, if the premise continues to serve alcoholic beverages to registered guest after the closing hours to the general public?
- (2) Regarding the Department's definition of "closed", would that allow patrons to occupy the premises after closing, if alcoholic beverages are not being sold.

A type 47 licensee cannot exclude the general public while they are exercising the privileges of sales, service and consumption of their alcoholic beverage license

Secondly, patrons can remain in a location after closing hours so long as there is no a sale, service or consumption of alcoholic after the ABC conditioned hours or 2:00 am. The Shade Hotel does not have ABC conditioned hours for sale, service and consumption of alcohol therefore the 2:00 am-time frame would apply. If you have any further questions please contact me at the above phone number.

Sincerely,

Vincent E. Cravens
District Administrator

Angela Soo

From: Laurie B. Jester
Sent: Tuesday, June 22, 2010 7:16 PM
To: Angela Soo
Cc: 'Michael Zislis'; Katie Kruff
Subject: FW: One More Clause to Move from Use to Entertainment Permit

12 color copies of all for PC

Laurie B. Jester
Community Development Acting Director
P: (310) 802-5510
E: ljester@citymb.info



From: Nate Hubbard [mailto:natehubz@mac.com]
Sent: Tuesday, June 22, 2010 5:08 PM
To: List - Planning Commission
Cc: Richard Thompson; Laurie B. Jester
Subject: One More Clause to Move from Use to Entertainment Permit

Commissioners,

We have found another clause in the staff report Exhibit A that grants Shade an entitlement to entertainment, which the entertainment permit should cover, not the use permit.

In RC2-2, we have deleted the first sentence, which permits non-amplified entertainment at special events and functions. The attachment provides Change Page 1 for our Exhibit AA, Proposed Changes to Contested Conditions. We request that the non-amplified condition be moved to the entertainment permit. (We request deletion of the reference to 'functions, if you do not delete the entire sentence.)

The Metlox Master Use Permit, Condition 40 in Resolution 5770, limits entertainment as follows:

“Dancing and amplified live music is prohibited within the business establishments. Non-amplified live music or entertainment, limited to background-type music, with a maximum of 2 entertainers is permitted.”

For effective management by staff of disturbances, Condition 40 of the Metlox Use Permit requires that the entertainment permit must authorize any entertainment in excess of the above statement, rather than

*Distributed at
6/23/10 PC Meeting*

06/23/2010

entitlements in the use permit.

We have conceded, however, an exception to the above ground rule, by agreeing to an entitlement permitting the annual Oktoberfest.

We apologize for our errata, but staff made many changes to the negotiated set of conditions, and it has taken us careful reading and rereading to find them all.

Thanks, Nate

EXHIBIT AA

RESTORATION OF STAFF CHANGES TO NEGOTIATED CONDITIONS, PLUS AREAS OF CONTENTION, AS OF JUNE 17

Restored and Edited Conditions in Conflict
<p>RC1-1. Closed. Music off and lights turned up in all public areas. Terrace, courtyard, skydeck, Zinc bar and Lobby, and all public areas vacated, except for staff throughout, as well as registered guests in the Lobby only. All members of the general public, including special event and function guests who are not registered guests, shall be out of the hotel. In the Zinc bar and lobby, terrace, courtyard, skydeck and all public areas, without exception, on or before closing, staff shall collect all glasses bottles and drinks alcoholic beverages, including from registered guests, to comply with the ABC definition of closed, as “no sale, service, or consumption of alcoholic beverages.”</p>
<p>Restores ‘closed’ definition to enforceable and easily determined criterion. MBPD cannot enforce staff change. See the narrative for a detailed history of this condition since the May 12 hearing. See Exhibit CC for the ABC letter defining ‘closed’.</p>
<p>RC1-2. Special event. An event under contract that has exclusive use of one or more venues or a portion of a venue. Attendees at special events shall have a written invitation from the host client. All special events shall pay charges consistent with those for other special events of similar nature and scheduling. The general public may not join nor participate in special events. Special events include non-profit or charitable events such as Chamber events, Downtown Open House and Charity Education Wine Auction.</p>
<p>Shade can create faux special events for the general public, if not required to charge consistent with real special events.</p>
<p>RC1-4. Registered Guest. A guest who occupies a room overnight. Privileges for registered guests extend to their invitees only as explicitly stated in this amendment, and not the general public. Registered guests may have invitees in their rooms and lobby.</p>
<p>Shade generally requires special event hosts to rent a room. The staff change would extend registered guest privileges to special event guests, such as picking up their cars at the lobby. The entertainment permit can expand invitee privileges invitees, if required.</p>
<p>RC2-1. General- The Director of Community Development shall not reduce restrictions in the entertainment permit or conditions as set forth in this Amendment, without approval by the Planning Commission, with notice to property owners within a 300 foot radius with standard notice procedures.</p>
<p>The staff version of this condition does not make sense. The restored version requires planning commission approval to change the entertainment permit such that it reduces restrictions on Shade.</p>
<p>RC2-2. Entertainment and Amplified Sound. Non-amplified music and sound is permitted in any venue for special events and functions, to the extent that the Noise standards of the MBMC are complied with. All amplified music and sound shall use the house system only and shall be limited to background music with the following exceptions;</p> <p align="center">NO CHANGES TO SUBPARAGRAPHS 1 & 2.</p> <p>3-The Zinc bar and lobby may have amplified DJ’s, live entertainment or music, other than background music. All doors leading to the outside shall remain closed. A maximum of 6 performers shall be permitted at any one time. Dancing is limited to a 15’ by 20’ area.</p>
<p>All entertainment conditions should be in the entertainment permit, as currently the case. Placing them in the use permit makes them an entitlement that staff cannot reduce administratively to control disturbances. Remove reference to ‘functions’.</p>

**CITY OF MANHATTAN BEACH
MEMORANDUM**

TO: Laurie Jester, Director of Community Development
FROM: Robert V. Wadden Jr., City Attorney
DATE: June 22, 2010
SUBJECT: Shade Entertainment Permit

I. Facts

The Shade Hotel is applying for a new use permit. Neighbors of the hotel are presently arguing that the conditions and provisions of the entertainment permit should be included in the new use permit instead of the entertainment permit. The current entertainment permit is issued by the City for a one year term pursuant to the provisions of Manhattan Beach Municipal Code Chapter 4.20.

II. Issue

Should the provisions and conditions of the entertainment permit for the Shade Hotel be included in the use permit instead of in an entertainment permit?

III. Brief Answer

By including the entertainment permit provisions in the use permit the City would be creating a permanent property interest in those provisions which would run with the land and be much harder to modify or revoke.

IV. Analysis

Customarily Manhattan Beach has kept use permits and entertainment permits separate. Entertainment permits are issued as administrative permits under the provisions of Chapter 4.20 of the Manhattan Beach Municipal Code. Under Manhattan Beach Municipal Code Section 4.20.100 these permits can only be issued for a limited duration not to exceed one year. Administrative revocation by the City Manager or his or her designee is specifically permitted. Because the terms of the entertainment permit are so limited by law, the property right granted by such a permit is limited. There is no right to automatic renewal of an entertainment permit and revocation or modification may be accomplished relatively easily without significant due process restraints.

Use permits confer a permanent property right on the recipient. Because of this they may not be granted for a limited term. Non renewal of a use permit is not permitted where vested rights have been obtained and no violation of the permit has occurred (*Goat Hill*

*Distributed at
6/23/10 P.C.
meeting*

Tavern v. City of Costa Mesa (1992) 6 Cal.App.4th 1519.) Revocation or modification (without the consent of the permit holder) of a use permit may occur only where the permit has been significantly violated or the use constituted a public nuisance. (*O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal.App.3rd 151.) Because a use permit creates a vested property right in the holder of the permit (*Arnel Development Co. v. City of Costa Mesa* (1980) 28 Cal.3rd 511) due process and taking issues become significant in any action to modify or revoke against the will of the permit holder. Finally a use permit runs with the land which means it continues virtually in perpetuity (even when zoning laws change permitted uses in a zoning district) and is transferable along with the property so new owners gain the same rights as the original permit holder. (*County of Imperial v. McDougal* (1977) 19 Cal.3rd 505; *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3rd 855.)

The City's entertainment permit does not run with the land nor is its term indefinite. It is a personal permit and its value as a property right is severely limited by the authority of Manhattan Beach Municipal Code Chapter 4.20 thus making it easier to modify or revoke and providing a validly enforceable limited term.

V. Recommendation

If the goal of regulating entertainment is to maintain maximum flexibility to deal with the impacts of the activity we would recommend that the provisions regulating entertainment no be incorporated into the use permit for the affected property as that will grant the holder of the permit significant property and due process rights they would not have under the entertainment permit.

LATE

ATTACHMENTS

FOR

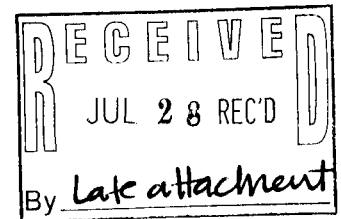
7/28/10

P.C. MEETING

Angela Soo

From: Angela Soo
Sent: Wednesday, July 28, 2010 4:26 PM
To: Angela Soo
Subject: RE: Neighbors' Comments on Shade PC Resolution 10-05

Angela Soo
Community Development Executive Secretary
P: (310) 802-5503
E: asoo@citymb.info
City of Manhattan Beach, CA



for PC mtg
7-28-2010

-----Original Message-----

From: Nate Hubbard [mailto:natehubz@mac.com]
Sent: Mon 7/26/2010 1:25 PM
To: List - Planning Commission; Laurie B. Jester; Richard Thompson
Cc: Bob & Arleen Neelraeck; RD Cameron; Pete Metro; Julie Woodsen; Don McPherson; Katie Deist; Paul Muenchow; Debbie Taylor; Ralph & Joan Mueller; Aksi Kikut; Richard Haft; Jeff Dooley; Brent Taylor; Scott Murch; Teresa Cho; Don & Edna Murphy; Giabardo Giabardo; Michael Madrinkian; Joseph Taylor; Andrew & Elizabeth Fouch; Stephanie Hubbard; Brion Tyler; Nancy & Dan Giallombardo; Gary Osterhout; DJ Shaeway; Maria Reinhart; Steve Wibel; Lloyd Bell; Lee & Pat Dolley; Heidi Walter; kddr100@aol.com; Chris Johnson
Subject: Neighbors' Comments on Shade PC Resolution 10-05

Planning Commission
City of Manhattan Beach
Via Email

Subject: Neighbors' Comments on Shade PC Resolution 10-05, Agenda Item 07/28/10-3, 28 July 2010

Commissioners,

We suggest three clarifications to PC Resolution 10-05 and additionally request three procedural items.

Clarifications.

1. To Condition 22, Noise Compliance Verification, we request addition of the following sentence:

"All conditions other than Condition 23, Hours for Alcohol Service, shall become immediately effective upon approval by the city council of PC Resolution 10-05."

We would like to ensure that conditions, such as definition of closing, become effective immediately upon city approval of the resolution, rather than waiting for Shade to obtain certification of noise mitigation measures.

2. Condition 28, Valet, needs clarification. Revise "...after special events and functions any day of the week." It should read as follows, "...after 9:00 PM for special events and functions any day of the week."

This change uses the same language as in Condition 31, regarding special events and functions.

3. Conditions 28 and 29 should use the same language as Condition 31 for ".registered hotel guests and disabled."

Procedural.

1. We request only the above three clarifications to the resolution, as approved June 23, but recognize that others may propose more substantive changes. If the commission becomes deadlocked on any proposed change, we request that the item in question reverts to the version approved June 23. Essentially, we request that the commission separately votes on each change, so that no proposed modification can jeopardize approval of the resolution as a whole.

2. Under the presumption that the resolution will not change materially from the version approved June 23, we will not appeal the planning commission decision, unless Mike Zislis does. We request that the commission inquire about Shade's intentions regarding appeal.

3. When staff submits the minutes for the July 28 meeting for approval, we request that they post the minutes and the resolution on the web site.

We greatly appreciate the extraordinary efforts made by the planning commission during the past year, to enable public input on the Shade application.

Thanks, Nate Hubbard

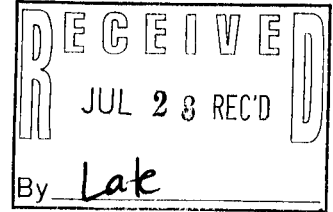
Angela Soo

From: Laurie B. Jester
Sent: Wednesday, July 28, 2010 4:07 PM
To: Angela Soo; Eric Haaland
Subject: FW: Letter regarding Planning Commission hearing



Shade Hotel
Letter 072810.pdfents on PC 10-0

just want to be sre you got this



Attachment
for
PC Mtg 7-28-2010

Laurie B. Jester
Community Development Acting Director
P: (310) 802-5510
E: ljester@citymb.info
City of Manhattan Beach, CA

-----Original Message-----

From: John Strain [mailto:jstrain@ustaxlawyer.com]
Sent: Wed 7/28/2010 11:00 AM
To: Laurie B. Jester; Mike Zislis; Milo Bacic; Katie Krufft
Cc: natehubz@mac.com
Subject: Letter regarding Planning Commission hearing

Laurie:

I am attaching a letter regarding tonight's hearing. I will separately email this to the Commissioners and the Council members. Also, I'd appreciate it if you would check and see if I've got the right email address here for Mr. Hubbard. Thanks.

Best Regards,

John A. Strain

LAW OFFICES OF JOHN A. STRAIN

321 12th Street, Suite 101

Manhattan Beach, CA 90266

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A Professional Corporation

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California Board of Legal Specialization

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Mountain House, CA 95391
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aziegler@ustaxlawyer.com

www.ustaxlawyer.com

July 28, 2010

8867.022

By email

Ms. Laurie B. Jester
Community Development Acting Director
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266

Re: *Shade Hotel*
Planning Commission Meeting for July 28

Dear Ms. Jester:

Tonight, the Planning Commission will be considering adoption of PC Resolution 10-05 in response to Shade Hotel's request for amendments to the Metlox Plaza Master Use Permit as applying to the Hotel. Shade Hotel again commends the Planning Department staff and the Commissioners for their diligent efforts on this matter over the last 18 months.

We expect the Commissioners to adopt this Resolution tonight without significant changes. We have carefully evaluated these final terms to determine whether it will be necessary to appeal this matter to the City Council. We have determined that an appeal is necessary and would like to briefly explain why this is so. This involves four particular matters:

A. The "closing" definition imposes a unique and unrealistic restriction on Shade Hotel. The draft Resolution narrowly defines "closed" to require all lounge customers to have exited the facility and all glasses to have been picked up. These are restrictions that do not apply to any other restaurant or bar in the City. When such a restaurant or bar "closes," staff does not push customers out the door or whisk away glasses. Customers would find this to be rude. Rather, lights are turned up, music is turned off, and staff starts to clean up.

Shade long ago withdrew its request to extend its weekend hours to 1:00 a.m. The hours now being requested are just like those for Metlox Plaza in general: 12:00 midnight on Friday and Saturday and 11:00 p.m. on other nights. As we read the existing Master Use Permit, those hours already apply to Shade. In any event, whether this gives

Shade a one hour extension on Friday and Saturday or is only a clarification, Shade needs to weigh the pluses and minuses.

The sound study obtained by the City and paid for by Shade established that Shade does not violate the objective and measurable noise standards applying under the Municipal Code. Shade has also indicated a willingness to make structural changes that may cost as much as \$200,000 (as well as accepting extensive restrictions on details of its business operations). In the final analysis, the terms of the proposed Resolution do not justify those costs and restrictions.

B. Thursday night hours might be reconsidered due to other recent Commission policies. While Shade had previously dropped its request to expand Thursday night hours of operation, the issue was brought back into focus as a result of action taken by the Planning Commission at its latest meeting (for which minutes will be approved tonight). That is, on July 14, the Planning Commission approved an extension of Thursday hours (until 12:00 a.m.) for Izaka Ya. The City Council might also consider whether the same policy should apply to Shade's Zinc Lounge.

C. The 9:00 cutoff for Skydeck alcohol service is inconsistent with Shade's long understood role as a facility for special events. Since Shade will not be able to substantially mitigate noise from its Skydeck (absent the height variance we requested), rules for Skydeck activities require a difficult balancing of neighbors' noise concerns against the general public's interest in use of this facility. While we commend the Commission's diligent consideration of this matter, we do not believe the Commission has reached the right balance. The key point here is that the Hotel has always been intended as a place for weddings and other events. The rules applying to it must be appropriate and workable for that purpose. The current rule provides that alcohol service on the Skydeck must end at 9:00 PM (even for weddings and other special events on weekend nights). This restriction is simply unacceptable to most people planning such special events. It therefore severely undercuts Shade's ability to provide an acceptable venue for such events.

Shade is not asking for much on this point. Without extending permitted Skydeck hours beyond the current 10:00 PM limit, Shade merely wishes to modify the current unrealistic rule that alcohol service on the Skydeck must stop a full hour before the approved closing time. We believe that the requested change reflects a reasonable balance between that intended use and concerns expressed by neighbors. To balance the neighbors' expressed concerns, we are suggesting (in paragraph 22) a shortening of Skydeck hours on weeknights.

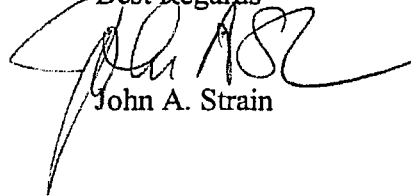
D. Details regarding valet operations need to be reexamined. The requirement that patrons use the Hotel's back door at specified times or circumstances will be hard to implement. That door was designed as, and appears to be, an emergency exit. Everyone is understandably accustomed to entering and leaving hotels through the

Ms. Laurie B. Jester
July 28, 2010
Page 3

drive up entrance designed for that purpose. Shade's guests are likely to find the unusual and shifting entrances to be odd and incompatible with a high quality hotel. Shade will do its best to redirect guest traffic under terms substantially like those in the proposed Resolution. However, we believe the 9:00 PM cutoff is unnecessarily early. Also, there should be some way to adjust these terms once we all see how this works in practice. We are concerned that any efforts to implement these rules may only increase commotion around the Hotel.

We are enclosing a complete list of changes we would like to see made to the text of this proposed resolution. Many of these are minor clarifications or corrections. However, again recognizing the extraordinary work of the Commissioners to date, we recognize that we can raise these matters at the next level. The time has come for the Commission to wrap up its good efforts on this matter.

Best Regards

A handwritten signature in black ink, appearing to read "John A. Strain", with a long, sweeping underline that extends to the right.

John A. Strain

JAS
Encl.

Cc(w/encl): Planning Commission Members (by email)
City Council Members (by email)
Mr. Michael A. Zislis (by email)
Mr. Milo Bacic (by email)
Ms. Katie Kruft (by email)
Mr. Nate Hubbard (by email)

Shade Hotel Comments on draft of PC Res. 10-05

Findings

Finding A: The following changes should be made to more precisely describe the Application:

The correct name of the Applicant is "Manhattan Inn Operating Company, LLC."

Clause 3 should be revised to read simply "expanded public food service" (thus, deleting "breakfast, lunch and evening "small plates").

The last sentence should be replaced with the following three sentences:

The current Use Permit allows events for up to 99 people without separate notification to the City and limited food service. The approved hours under the current Use Permit are until 10:00 p.m. daily for the roofdeck and 11:00 P.M. Thursday-Sunday and 12 midnight Friday-Saturday for special event use only for the Courtyard, meeting room (Greenroom) and lounge. The Applicant believes that the current approved hours for the Hotel's lounge are also 11:00 P.M. Thursday-Sunday and 12 midnight Friday-Saturday. The staff believes that the approved hours are 11:00 P.M. nightly.

Finding E: The correct name is Manhattan Inn Operating Company, LLC

Finding L: Should read as follows to more fully summarize the terms of Res. PC 05-08:

"Resolution No. PC 05-08 allowed a Type 47 license for the site, allowing full liquor for the general public and including the service of food to provide high quality service to their customers consistent with the business plan and in order to allow the in-room mini-bars (Type 66 license), as well s the portable bar with full liquor (Type 66 license), all for on-site consumption of alcohol only, as well as events up to 99 people without approval of a Temporary Use Permit."

Finding O: The last sentence should read as follows to avoid slanting the factual summary:

The Manhattan Beach Police Department has responded to numerous calls regarding alleged disturbances, and for several of these incidents, has reports and recordings of noise from Shade, but no citations have been issued.

Conditions

Condition 1: The definition of “closed” should be deleted. That term (or the phrase “hours of operation” should be interpreted and applied in the same way it is for every other similar business in the City). If the definition is retained, it should be revised as follows:

1. Closed. All sales and service of food and beverage shall previously have stopped as outlined in paragraph 23, music shall be off and lights shall be turned up in all public areas. Members of the general public, including special event and function guests, shall be leaving the Hotel. Within 15 minutes after closing time, the terrace, courtyard, skydeck, Zinc bar and Lobby shall be vacated (except for registered hotel guests and hotel staff) and all glasses, bottles, cans and drinks shall be collected.

Condition 12 shall be modified in the following ways:

The fourth sentence, currently starting “Between 9:00 PM and 6:00 AM on Friday, Saturday,” etc., shall say instead “Between 10:00 PM and 6:00 AM) AM on Friday, Saturday,” etc.

The last part of clause (b) of that Condition shall be changed by adding the following underlined words:

All others shall use the west entrance or, unless there is a queue, the south (Terrace) entrance

Condition 15: The second sentence should be modified to add the following underlined words: Amplified sound is prohibited on the skydeck after 9 PM (9:30 PM on Fridays and Saturdays)\

Condition 22 should begin as follows:

22. Noise Mitigation Verification. Paragraphs 17 and 36 through 39 of this Amendment shall be effective immediately. All other terms of this Amendment shall apply only after the installation of the mitigation measures, etc.

Condition 23. The last line of the table should be replaced with the following

Skydeck	10PM (Fri-Sat)	20
Skydeck	9:30 PM (Sun-Thurs)	20

Condition 28. The first three sentences of this Condition should be modified to read as follows:

The Shade valet service shall relocate away from the Shade east or south entrances after 10:00 PM on Fridays, Saturdays, Sundays before Memorial Day and Labor Day, New Years Eve, and after 10:00 PM for special event and functions any day of the week. At such times, everyone except for registered hotel guests and disabled shall be prohibited from picking up their vehicles from the Shade front (east) entrance (or shall be required to wait inside the Hotel until their vehicle is ready). The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development.

Condition 29. The third sentence should start

“Everyone, except for registered hotel guests and disabled, shall be directed, etc.”

Condition 31: The first sentence should be modified to read as follows:

After 10:00 PM on Fridays, Saturdays, and Sundays before Memorial Day and Labor Day, New Years Eve and after 10:00 PM for special events and functions, everyone except registered hotel guests and disable shall use the west door, opening onto the Metlox Plaza, to enter and exit the hotel.

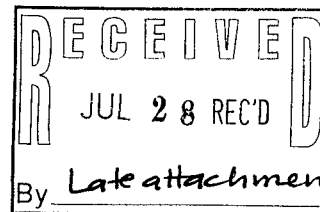
Condition 33. The first sentence should start as follows (so as not to apply, e.g., to a Super Shuttle delivering one or a few guests):

“Any vehicles transporting large groups to or from the Hotel, such as buses, shuttles, or recreational vehicles, etc.”

Laurie B. Jester

From: Seville-Jones, Sandra [Sandra.Seville-Jones@mto.com]
Sent: Wednesday, July 28, 2010 6:07 PM
To: Laurie B. Jester
Subject: Fw: Shade Appeal of PC Decision

From: Nate Hubbard <natehubz@mac.com>
To: PlanningCommission@citymb.info <PlanningCommission@citymb.info>; CityCouncil@citymb.info <CityCouncil@citymb.info>
Cc: Richard Thompson <rthompson@citymb.info>
Sent: Wed Jul 28 17:01:45 2010
Subject: Shade Appeal of PC Decision



for PC mtg. 7/28/2010

Planning Commission
City of Manhattan Beach
Via Email

Subject: Critique of Shade Changes Required for PC Resolution 10-05

Commissioners,

We find it unsettling that at the June 23 hearing, Mike Zislis supported the draft resolution approved by the commissioners, but now has changed his mind. He will appeal unless the planning commissioners approves the many significant changes he proposed this afternoon, shortly before the hearing tonight..

The attachment provides our critique of Shade's proposed significant changes to PC Resolution 10-05, which staff believes the commission approved at the June 23 hearing.

Thanks, Nate Hubbard

CRITIQUE OF SHADE SIGNIFICANT CHANGES TO PC RESOLUTION 10-05

Insignificant changes not included;
F-A refers to Finding A, C-1 refers to Condition 1

Item	Significant Changes Proposed by Shade	Yes?	Critique
F-A	Clause 3; delete 'breakfast, lunch and evening small plates'	No	Application has consistently requested 'evening small plates'
F-A	Add Shade argument that Metlox Master Use Permit, Reso 5770, permits midnight hours for Zinc bar on Fri-Sat	No	Explicitly not a PC finding, as per commissioner comments on record
F-L	Add finding regarding business plan	No	No such finding; no business plan on record
F-O	Presumes city attorney opinion of disturbance evidence	No	City attorney has not made a determination regarding Shade public nuisance
C-1	Delete definition of closed	No	No way to enforce closing without definition of closed
C-1	Extend hours 15 minutes after Condition 23 closing times	No	Not part of agreement between Shade and neighbors
C-12	Change front entrance close from 9 PM to 10 PM	No	No evidence for 10 PM. PC has consistently stated 9 PM as time to implement procedural noise mitigation.
C-12	Clause (b), west door ingress/ egress only if queue	No	Too detailed for MBPD to enforce
C-15	Permit skydeck amplified music to 9:30 PM vs 9:00 PM	No	No supporting evidence
C-22	Postpone closing definition and other conditions until sound mitigation implemented and certified	No	Shade disturbs the neighborhood by operating after closing hours. Postponing closed and other conditions permits Shade to disturb the neighborhood indefinitely, until they decide to implement noise mitigation.
C-23	Permit skydeck operation until 20 minutes before close	No	No evidence for 9:40 PM extension. PC has consistently stated 9 PM as time to stop skydeck music.
C-28	Delay valet move to 10 PM.	No	See critique for Item C-12
C-28	Permit general public to pick-up valet cars at front entrance	No	Current situation. Disturbances arise from inebriated patrons getting into cars at front entrance
C-31	Changes general public ingress/egress at front entrance from 9 PM to 10 PM	No	See critique for Item C-12
C-33	Permits any group not an undefined 'large group' to embark/disembark at front entrance	No	Not enforceable. MBPD will not cite a Super Shuttle from picking up or discharging a few people