

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JULY 22, 2009**

The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 22nd day of July, 2009, at the hour of 6:35 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

A. ROLL CALL

Present: Andreani, Fasola, Lesser, Paralusz, Chairperson Seville-Jones
Absent: None
Staff Present: Richard Thompson, Community Development Director
Laurie Jester, Planning Manager
Eric Haaland, Associate Planner
Recording Secretary: Sarah Boeschen

B. APPROVAL OF MINUTES – June 24, 2009

Chairperson Seville-Jones requested that line 13 of the second paragraph on page 13 of the June 24 minutes be revised to read: “She commented that she would like staff to give more consideration to the applicant’s suggestion of eliminating the restrictions on advertising for the lounge and bar.”

A motion was MADE and SECONDED (Paralusz/Lesser) to **APPROVE** the minutes of June 24, 2009, as amended.

AYES: Andreani, Lesser, Fasola, Paralusz, and Chairperson Seville-Jones
NOES: None.
ABSENT: None.
ABSTAIN: None

C. AUDIENCE PARTICIPATION

None.

D. BUSINESS ITEMS

07/22/09-2 Consideration of a Sign Exception Regarding the Installation of Vinyl Mesh Wall Signs on the Manhattan Beach Studios Facility at 1600 Rosecrans Avenue

Associate Planner Haaland summarized the staff report. He commented that the proposal is for five large vinyl mesh wall signs primarily promoting movies and television shows that are produced at the studios. He commented that the signs would cover windows and would be partially transparent. He indicated that two of the proposed signs would be 950 square feet and two would be 1200 square feet facing Rosecrans Avenue. He said that a fifth sign is proposed on the west side of the facility on a stucco wall which would be 2,660 square feet. He stated that the signs are intended for business identification and possible public service announcements, as well as third party advertising. He indicated that a Sign Exception is required for the proposal because the signs would include changeable copy; the total sign area would exceed the allowable 670 square feet; the sign faces would all be greater than 150

square feet; and the proposal includes allowing off premises third party advertising. He stated that the applicant originally proposed an LED sign previously which was denied by the Commission and the City Council. He commented that the Council did not support the LED sign but felt that some kind of an exception to the Sign Code may be appropriate, as the studio is a unique use. He indicated that the City Council encouraged the applicant to reapply with a revised sign proposal. He stated that staff feels the location of the west interior sign as proposed is awkward and would possibly be visible to the residents to the southwest of the site. He stated that staff is recommending that the sign be removed from the proposal. He commented that billboard signage has not been approved in the City previously and is not consistent with the intent of the Sign Code. He said that staff is recommending that the application be approved with the conditions that the rear west facing sign be omitted from the proposal; that any third party billboard-type use of the signs be prohibited; and that the signs be required to be changed every six months or similar period.

Director Thompson indicated that staff's recommendation is that the approval for the signs would apply only for the studios. He indicated that language can be added to the Resolution if necessary to be more specific.

In response to a question from Commissioner Lesser, Associate Planner Haaland said that the City Council felt that the use, size, and development of the site make it unique and therefore the project would not set a precedent for other businesses in the City.

In response to a question from Commissioner Lesser, Associate Planner Haaland commented that palm trees would obstruct the view of one of the signs; however, the applicant is not proposing to change any landscaping.

Commissioner Fasola asked whether the proposal would result in other businesses requesting special consideration for signage. He said that he is not certain whether the subject type of use is truly unique as opposed to another type of business such as Skechers.

Associate Planner Haaland said that Skechers is a common office building and use and would not necessarily be able to make the same argument that they should be given unique consideration for signage.

Director Thompson commented that after much discussion, the City Council felt that the studio is a unique type of use that required special consideration. He indicated that there were also suggestions about the type of signs that would be appropriate for the site, which is consistent with the proposal.

Chairperson Seville-Jones asked whether consideration was given to establishing a new zone for entertainment use that would be permitted to have movie banners.

Director Thompson indicated that a different type of zone could be created which would be more appropriate to fit the studios, and such an option is currently being discussed.

In response to a question from Commissioner Paralusz, Associate Planner Haaland stated that LED signage which is constantly changing would be more distracting to drivers on Rosecrans Avenue and create more of a safety risk than banner signs as currently proposed.

In response to a question from Commissioner Paralusz, Associate Planner Haaland said that staff would not recommend permitting use of the proposed signs for public service announcements.

Commissioner Paralusz commented that the language of item 2 under “Site Preparation/Construction” in the draft Resolution does permit on-site tenants to be identified on the banners. She indicated that she would suggest modifying the language if the intent is to only allow use of the signs for on-site productions.

Associate Planner Haaland commented that there is an error under Section 2 on page 1 of the draft Resolution referring to “a second pole sign” which will be removed.

Brandon Taylor, representing the applicant, stated that there is a landscaping maintenance plan for the site. He indicated that the trees adjacent to the building become very lush in the spring and summer but are trimmed back in the fall. He indicated that they feel there would be sufficient visibility of the east facing signs with the existing palm trees. He stated that their intent is to match the competition in the industry. He indicated that other studios are moving toward incorporating LED signage. He said that they are a unique use with only ten other similar operations in the country, unlike other types of uses such as an auto dealership with thousands of operators. He stated that their business operates only within their location and they must be able to match the demands of the industry. He indicated that they need to offer production companies the ability to advertise.

Commissioner Fasola commented that he is concerned that other businesses would claim that they are also unique and should be given special consideration for signage if the proposal is approved for the subject applicant. He asked about the possibility of renting space on other signs in the area such as the LED sign in Lawndale off of the 405 freeway.

Mr. Taylor commented that not being able to offer signage on site takes away from the services that they are able to provide to their clients, which is a concern to them. He indicated that advertising is extremely important for movie and television productions.

In response to a question from Chairperson Seville-Jones, **Mr. Taylor** stated that they feel the location of the rear west facing sign is tasteful and would provide a line of sight from Rosecrans Avenue.

Gary Osterhaut, a resident of the 500 block of 31st Street, stated that he is opposed to the proposal as modified. He commented that the proposal is beyond the aesthetics of the goals of the City and is beyond the intent of the Ordinance that signage only provide business identification. He commented that he does not feel it has been shown that the signage is necessary for the enjoyment of the property. He indicated that competing studios are in locations where the city has been built around them. He said that Manhattan Beach has not been developed to the scale that the area should be categorized with its own district. He commented that the same signage as proposed does not appear to be offered at the other locations of Raleigh Studios. He stated that the fact that the site is not located adjacent to a residential neighborhood does not change the intent of the Code. He commented that it would be difficult to regulate the future use of the signs once they are approved. He said that other businesses would want similar signage if the current proposal is permitted. He indicated that it would be difficult to regulate the content of the signs, and some ads may have content that would not be appropriate for display along the street.

Jackie May, a resident of the downtown area, indicated that signage is very important to studios and are a large sense of pride. She pointed out that Skechers has a large sign which is out of place on Manhattan Avenue. She indicated that Rosecrans Avenue is a large business corridor which is different than other areas of the City. She said that the studios in Santa Monica have large signs. She stated that she does not feel the signs as proposed would be a distraction. She pointed out that it is expected for a studio to have large signs.

Karol Wahlberg stated that she is opposed to the signage as proposed and feels it is not in keeping with preserving the small town atmosphere of the City. She commented that the signs would clearly be used for advertising, and she does not know how it could be argued that other businesses in town should not be permitted to have similar signage. She commented that the proposal would set a dangerous precedent for the City. She indicated that the City has always attempted to limit signage, yet there are an increasing number of signs.

In response to a question from Commissioner Lesser, Director Thompson stated that the entitlement for the signage would remain with the property if approved. He commented, however, that only a studio would be able to take advantage of the Sign Exception with the conditions as proposed.

In response to a question from Chairperson Seville-Jones, Director Thompson stated that consideration is being given to creating a land use category that would be designed for a studio use that addresses issues such as signage and the operation of the studios. He said that it will be six months to a year before a proposal for such as district is brought before the Commission. He indicated that the Resolution would be very specific as to the approval and the reasons why the land use is unique.

Chairperson Seville-Jones commented that part of the argument for allowing the signage is that it would allow the applicant to remain competitive, and the same argument could be made for other types of businesses such as Skechers.

Director Thompson pointed out that Manhattan Beach Studios is a very different type of use, site, and facility than Skechers.

Discussion

Commissioner Paralusz indicated that she supports the proposal with modifications. She stated that although the signs are large as proposed, they are consistent with her recollection of the City Council's direction at their meeting. She stated that she feels the proposal would meet the three criteria necessary for approval. She commented that she does not feel the signs would be detrimental to the adjacent neighborhood. She indicated that the signs would not be constantly changing and would not create a safety hazard for drivers. She said that she does have a concern with the sign on the west building facing the Bristol Farms parking lot and would agree that it should be eliminated from the proposal. She stated that she also feels the second criteria can be met that the proposed sign exception is necessary in order that the applicant may not be deprived unreasonably in the use or the enjoyment of their property. She indicated that the studio is a unique use, and the general public cannot visit the studios to purchase their services as is the case with retail uses. She indicated that signage for advertising their productions is an important part of the applicant's ability to reasonably enjoy the property. She said that she can also make the finding that the proposed sign exception is consistent with the legislative intent of the title of the Code. She indicated that the signage as proposed is necessary for providing business identification. She indicated that the productions that are filmed at the studios are a source of pride for the community. She said that she does have a concern with the sign located near Bristol Farms, as it would be visible from the parking lot and also to adjacent residential properties. She stated that she would recommend revising the wording of the second sentence of item 2 under "Site Preparation/Construction" in the draft Resolution to read: "All sign content shall be limited to identifying the Manhattan Beach Studios, ~~on-site tenants~~, or entertainment productions created on-site." She said that she would also suggest that entertainment productions that are advertised be limited to those that are filmed on site.

Commissioner Andreani commented that the existing monument sign for the studio and the Marvel sign located on the corner of Rosecrans Avenue and Redondo are tasteful in design and presentation. She stated that she is in support of allowing for additional signage. She stated that a good argument has been made regarding the uniqueness of the site. She commented that she has not observed LED signs in Century City and Beverly Hills for other studios, although she has seen billboards. She said that the signs as proposed are superior to LED signs which could create a safety concern for drivers. She indicated that she agrees that third party advertising should not be permitted. She said that she is not certain if the advertising on the signs should be limited to productions that are created or filmed on site. She said that she is also concerned with the sign proposed on the west side of the site, as it would be very prominent from the Bristol Farms lot and would be very close to the Manhattan Village residents and the golf course. She suggested lettering similar to the size of the Marvel sign for the upper north corner of the west side of the building rather than a banner sign. She commented that she is also opposed to the sign on the east side of the building, as there are existing signs for the studios and for Marvel. She indicated that she would support limited signage along the north side of the building along Rosecrans Avenue. She stated that she is also concerned that the sign be limited to a studio use and not for any different type of use in the future.

Commissioner Fasola said that he feels the signs are basically massive billboards. He stated that Manhattan Beach was not based around the studios, but rather the studios were built within a residential community. He commented that he is surprised that staff is supportive of the scale of the signs. He indicated that the Sign Code prohibits billboards, and the proposal is for signs seven times larger than would be permitted for any other business with a similar type of building. He said that the signs would be visually obtrusive and do not have a place in the City. He commented that he does not feel the uniqueness of the entertainment industry justifies granting the signage. He commented that there are other billboards in the area that could be utilized by the studios for advertising productions. He stated that the intent of the signs is for the studio to make more revenue, which is the reason why third party advertising is being proposed. He stated that other businesses would be able to make an argument that they need special advertising in order to compete if the subject proposal is approved for the applicant.

Commissioner Lesser stated that he wants to support the studios. He commented that Rosecrans Avenue is an appropriate location for signage, as there is a great deal of traffic and many existing signs. He pointed out that marketing is very important to the motion picture industry. He stated, however, that he cannot support the proposal because of the scale and the scope of the exceptions that are being requested. He commented that he feels the proposal exceeds the intent of the Council in suggesting a more traditional banner sign rather than an LED sign as originally proposed. He said that he feels the findings required for approving the Sign Exception are not met by the proposal. He commented that the intent of the Sign Code is for signage to provide business identification. He said that there is existing signage that identifies the studios. He indicated that the proposed signs would dwarf other locations on Rosecrans Avenue. He commented that he is interested in learning more about the possibility of creating a specific zone for studios. He stated, however, that he would have difficulty in granting the subject proposal with the current Ordinance. He said that he would be open to the possibility of allowing a smaller sign, as he feels it would be reasonable to grant the applicant some limited exception in order to allow them to offer advertising to their clients.

Chairperson Seville-Jones indicated that she is having difficulty making the required findings. She stated that the studio is a unique use. She pointed out that they employ a large number of people and generate a great deal of revenue for the City. She stated that the entertainment

industry will help to define the City in the future as does the AVP. She said that having the banners to advertise the importance of the studio in the community could be important in the future. She said however, that such signage does not fit within a narrow sign exception. She stated that she has difficulty in reaching the finding that denying the proposal would unreasonably deprive the applicant of the use or enjoyment of the property. She indicated that the studios have been quite successful without the signs, and she would guess that there are other large studios that do not have such large signs. She also commented that the intent of the Sign Code is for signage to only provide business identification and not for the City to identify itself to the community. She commented that she would like for the City to include an entertainment district to identify the site as special and unique. She stated that she cannot support the proposal given the criteria of the Sign Code and Sign Exception.

Commissioner Paralusz indicated that she would be in favor of the suggestion from Commissioner Andreani that limited signage be allowed on the north side of the building.

Commissioner Andreani indicated that she would support allowing small lettering on the west side of the building to identify the studio rather than a large banner sign. She indicated that she would also support one or two signs on the north side along Rosecrans Avenue that are smaller in scale than the proposal.

Commissioner Lesser stated that the signs as proposed along Rosecrans Avenue appear very large.

Mr. Taylor said that they would prefer to have an opportunity to continue the hearing to allow them to work further to address the comments of the Commission.

Chairperson Seville-Jones also suggested that the applicant work with the staff to better define who would have the ability to advertise on the signs and whether the signs would be illuminated.

Director Thompson commented that it is not necessary for the item to be rescheduled to a date certain, as it is a business item rather than a public hearing.

At 8:05, a 10-minute recess was taken.

E. PUBLIC HEARINGS

07/22/09-3 Consideration of a Master Use Permit Amendment for Modifications to the Existing Approvals for Hours of Operation, Size of Special Events, Dancing, Food Service, and Installation of a Glass Wall Between the Lobby Bar and Hotel Rooms at the Shade Hotel, Metlox Site, 1221 North Valley Drive (Manhattan Inn Operation Company, LLC)

Commissioner Fasola indicated that he has recused himself from consideration of the issue.

Commissioner Lesser said that he and his wife toured the Metlox facility and perimeter of the hotel at about 11:00 p.m. and 11:45 p.m. on Saturday, July 18.

Commissioner Andreani stated that she also visited the area around the hotel on Friday, July 17 and Sunday, July 19 at 10:00 p.m.

Chairperson Seville-Jones commented that she has also visited the site on three recent evenings including the weekend of July 18.

Commissioner Paralusz indicated that she did not visit the hotel over the July 18 weekend but has visited the area on several evenings including weeknights and weekends.

Planning Manager Jester summarized the staff report. She stated that letters and e-mails have been provided to the Commissioners which were received after the staff report was written with concerns regarding the increase of noise that would result from the proposed expansion of hours. She stated that two letters were also received in support of the proposal for expanded hours. She pointed out that the proposal to allow dancing throughout the facility has been withdrawn, and it would continue to be limited to special events. She commented that a maximum of 99 people are currently allowed for special events at the hotel without prior notice to the City being required, and the proposal is to allow a maximum of 150 people for events without prior notice being required. She stated that food service is currently limited to hotel guests with breakfast, room service, and evening appetizers. She stated that full food service is available for special events. She indicated that the proposal is to provide lunch service to the general public.

Planning Manager Jester said that the proposal is to install open accordion glass doors that would create a hallway to separate the lobby bar and the courtyard. She stated that the bar and terrace are currently allowed to operate until 11:00 p.m., and the proposal is for operating hours of 11:00 Sunday through Wednesday; 11:30 on Thursday; and midnight on Friday and Saturday nights and nights before holidays. She stated that special events are currently permitted until midnight on Friday and Saturday nights in the interior courtyard, which would not change with the proposal. She said that the sky deck currently is permitted to operate until 10:00 p.m. daily, and the proposal is to allow operation of the deck until 10:00 p.m. Sunday through Thursday and 11:00 p.m. on Fridays, Saturdays and holidays. She commented that alcohol service currently must end one hour before closing on the rooftop deck and a half hour before closing in the interior courtyard, and the proposal is to allow service up to 15 minutes before closing. She stated that the hearing was noticed within a 500 foot radius and notice was placed in the Beach Reporter.

Commissioner Lesser asked whether staff has a recommendation for requiring further measures to address noise concerns such as an acoustical study; directing patrons to exit toward the west of the hotel after a certain hour; or requiring additional staff of the hotel to monitor patrons beyond the doors of the hotel.

Planning Manager Jester said that it would be appropriate to direct the applicant to further investigate any of the measures suggested by Commissioner Lesser if it is the wish of the Commission.

In response to a comment from Commissioner Paralusz, Planning Manager Jester indicated that Master Use Permit currently does not provide for lunch service at the hotel.

In response to a question from Commissioner Andreani, Planning Manager Jester indicated that the hotel could be considered to be in violation of the conditions of the existing Master Use Permit by serving breakfast and lunch to people that are not guests staying at the hotel. She pointed out that special events with more than 99 people currently can be approved by the Community Development Director, and the proposal is to allow events with a maximum of 150 people without prior approval.

In response to a question from Chairperson Seville-Jones, Planning Manager Jester said that the alcohol license is issued to the hotel operators by the Department of Alcoholic Beverage Control (ABC). She stated that the City does not have the authority to enforce ABC

regulations. She indicated that if a complaint is received, a hearing will be held by the ABC if they feel it is appropriate. She said that there is no indication from the ABC that the applicant is in violation of their alcohol license.

In response to a question from Chairperson Seville-Jones, Planning Manager Jester said that staff would not have an objection to removing the restrictions for advertising food service if the Commission were to approve the request for food service to the public.

Michael Zislis, the applicant, said that he is submitting a petition that includes over 500 signatures in support of extending the hours as proposed. He pointed out that they must contact the City to receive approval for special events over 99 people, and their request is to be able to hold events with a maximum of 150 people before being required to contact the City. He stated that his request is to operate until midnight on weekends. He commented that he originally did not request lunch service and originally requested to operate only until 11:00 p.m. because he was not aware of exactly what would be necessary for the business to be successful. He indicated that he would like the ability to operate until the same hour as the adjacent restaurants. He pointed out that he is only asking to operate until midnight on Friday and Saturday nights rather than until 1:00 a.m. as previously requested. He commented that the hotel brings a large amount of tax revenue to the City. He said that he met with several of the neighbors after the last meeting to discuss additional noise mitigation measures. He pointed out that the site is located in a commercial zone, and there is a great deal of noise in the downtown area. He said that people return to the public parking lot across Valley at late hours from the bars downtown, and he suggested that the lot be closed at midnight. He said that he would be willing to eliminate the valet service for the Metlox site which currently operates from the hotel.

Mr. Zislis suggested that there be a one year review if the proposal is approved. He commented that there are limiters on the speakers to reduce the noise level. He stated that they have placed a glass wall along the southeast side of the sky deck to reduce noise. He said that moving the valet service to Morningside Drive may be difficult and may not be the best option. He commented that they have experimented with using a radio to call the valet service while customers wait inside the hotel for their car to be retrieved, which appears to be quite successful. He indicated that a similar option could be utilized for calling cabs for customers so that taxis do not cue in front of the hotel. He stated that they have closed the curtains on the southeast side of the terrace to help limit the noise. He indicated that they have eliminated the bass speakers. He commented that they want to be equal with the other operations in the Metlox development. He said that they have agreed to limit events from 11:00 p.m. to 10:00 p.m. during the week.

Commissioner Paralusz asked about the possibility of limiting egress to the west side of the hotel after 10:00 p.m.

Mr. Zislis said that he would be willing to work with the Commission and the neighbors regarding noise issues of customers leaving the hotel. He commented that he has a concern with exiting patrons on the west side of the building because customers are inconvenienced by having to walk around from Morningside Drive to retrieve their car at the front of the site. He commented that he feels a better option would be to radio between the hotel and the valet operator and have customers wait in the building while their car is being retrieved. He stated that he would be willing to direct guests to exit to the west if other noise mitigation measures are not satisfactory to the neighbors. He pointed out that the east exit (main hotel entrance) is closed after 10:00 p.m., and customers are directed to exit through the terrace to the south and then to the escalators.

In response to a question from Commissioner Andreani, **Mr. Zislis** said that he would be willing to lower the maximum number of people permitted at special events before being required to contact the City to 125 rather than 150.

In response to a question from Commissioner Andreani, **Mr. Zislis** said that the noise level permitted by the City for exterior noise is 45 decibels, and the measurement of noise from the hotel from across the street is 30 decibels on a busy night. He indicated that the maximum for sound in the interior of the building is 85 decibels.

In response to a question from Chairperson Seville-Jones, **Mr. Zislis** indicated that he is in complete compliance with their alcohol license. He said that 70 percent of the revenue of the business is generated from rooms at the hotel and 30 percent from alcohol and food sales. He said that the marketing is not a large issue; however, it is difficult for him to maintain 50 percent of food sales in relation to alcohol sales if they are not permitted to advertise for food service. He commented that he would be agreeable to restricting any advertising to food service only and not alcohol service.

John Strain, representing the applicant, stated that the hotel was always planned to be the major component of the Metlox development. He indicated that the hotel was reduced to have a maximum 35 to 40 rooms, which is not commercially viable in an area such as Manhattan Beach. He stated that the hotel is a viable because it includes a lounge area and a venue for special events. He indicated that the applicant is willing to work with the neighbors as much as possible regarding eliminating noise while still allowing for the operation to be viable.

Chairperson Seville-Jones opened the public hearing.

Public Input

Kurt Schlichter stated that he is a customer at the hotel as well as the other establishments owned by **Mr. Zislis**. He indicated that the hotel has added a great deal to the community in creating a large number of jobs and providing a number of services. He indicated that the hotel is becoming a destination location and should be supported. He stated that the applicant has spent a great deal of money and has done everything that can be expected to compromise with the residents. He commented that the people in the neighborhood moved into a commercial zone, and it is not realistic to expect that the site would remain as a vacant lot. He indicated that the applicant has met with staff and the community. He said that he hopes a compromise can be reached between **Mr. Zislis** and the neighbors.

Nick Arquette, stated that his non profit organization has been able to grow because of **Mr. Zislis**. He commented that the requirement for events to end by 11:00 p.m. is very restrictive, as most events do not begin before 8:00 p.m. or 9:00 p.m. He indicated that it is difficult to ask people to give a large amount of money for an event that is shut down early. He stated that needing to leave at 11:00 is highly restrictive, and the request for an additional hour is reasonable. He commented that security at the hotel is outstanding, and **Mr. Zislis** abides by every policy of the City. He said that he is concerned that the hotel is being blamed for problems for which they are not responsible. He indicated that the hotel is an important part of the community.

Theresa Cho, a resident of 12th Street, stated that she is a member of a group of residents in opposition to the proposal. She stated that their concerns are that there have been repeated noise disturbances to the adjacent residents resulting from the hotel site and potential violations of the Code; that the Shade has become a destination bar with customers from out of the area rather than the primary use of the site remaining as a hotel; that there has been a loss of

residential property value of the adjacent homes as a result of the disturbance from the hotel; and that there has been a potential violation by the applicant of the alcohol license for the hotel. She stated that the Commission must have additional facts before any resolution can be prepared and approved.

Jeff Dooley, a resident of the 1100 block of North Ardmore, said that there has been evidence from the testimony at the previous hearing that noise from the Shade is disturbing the adjacent neighbors, and they are in violation of Code Section 548140. He commented that they would like to see maximum permitted decibel levels from the lounge (bar), courtyard, terrace, and sky deck areas at all hours correspond to the acceptable noise levels in a residential area determined by an independent certified sound expert. He said that they would also like for analysis from certified experts to identify a systemic set of mechanical and procedural noise reduction techniques. He indicated that they would also like for further information regarding the use of the annual entertainment permit by the hotel. He pointed out that the permit can be modified by the City. He indicated that the Master Use Permit only allows the hotel the right to have two non-amplified entertainers, and any additional entertainment for special events requires a permit. He said that they did meet with the applicant. He indicated that he has difficulty understanding the logic of addressing existing noise issues after the expansion of the use is granted. He commented that tax revenue from the hotel is generated without extending the hours.

Brent Taylor, a resident of the 500 block of 12th Street, said that they originally anticipated that the hotel would be a boutique bed and breakfast rather than a four star destination hotel. He said that the Use Permit in 2002 restricted alcohol sales to the mini bars in the hotel rooms and to a wine bar serving only to hotel guests. He indicated that an amendment was passed in 2005 which allowed full alcohol service to the public and increase attendance at special events to 99. He stated that by increasing the hours and increasing special events will only aggravate an existing issue. He commented that the Amendment included that the project would not result in any negative impacts to the adjacent properties, which is not the case. He indicated that increasing the hours of operation for the hotel and the number of attendees at special events would only aggravate an existing problem.

Steve Weibel, a resident of the 1200 block of Ardmore, commented that the adjacent neighbors have signed a petition in opposition to the proposal. He stated that he has sent e-mails to the City Council, Planning Department and police regarding the noise level. He stated that the police have been unable to resolve the noise issues, and their response has been that the Noise Ordinance is difficult to enforce. He indicated that the noise level will need to be disclosed when the adjacent property owners sell their properties. He commented that he would want enforcement of the original permit before the entitlements are increased.

Garth Casper, a resident of 16th Street, said that the request for additional hours is completely reasonable, and the request is necessary in order for the applicant to remain competitive. He said that he supports the proposal.

Don McPherson, a resident of the 1000 block of 1st Street, said that there is a possibility that the hotel is in violation of the requirement of the ABC that food sales must be greater than alcohol sales. He commented that the Shade was originally intended to be a small boutique hotel in order to control its intensity. He indicated that food service was also intended to be limited to be breakfast for hotel guests and appetizers in the evening. He said that the limited food service makes it more difficult for the hotel to meet the requirement for greater food sales than alcohol sales. He said that the Commission must ensure that the hotel complies with the ABC regulations before they can make a decision on extending the hours. He indicated that it is more likely that the ABC requirement would not be met if the hours are extended, as people

tend to drink more and eat less during later hours. He commented that the Commission does not have sufficient facts at this time to grant the approval. He also suggested that staff modify the annual entertainment permit for the hotel in order to reduce the impacts. He indicated that the permit is not a property right and can be modified by staff administratively. He stated that the Metlox Master Use Permit limits the hotel to two non-amplified entertainers, and any additional entertainment must receive prior approval. He asked that the issues with the current operation be addressed before the hours are extended.

Helen Duncan, representing the Manhattan Beach Chamber of Commerce, indicated that they support the proposal. She stated that **Mr. Zislis** has hosted many events and has sponsored many charities. She said that the hotel should be encouraged at a time when other businesses are closing in the City. She said that it is very important for business to be encouraged.

Nathan Smith said that he supports the hotel. He commented that he has stayed extensively at the hotel for his job, and he would not have chosen the hotel if there were an issue with noise that made it difficult to sleep. He commented that his company often hosts executives of large retail chains at the Shade, which brings revenue to the City.

Esther Besbris, a resident of 2nd Street, stated that the Manhattan Beach Residents Association has been involved regarding the issue of the hotel. She commented that the Manhattan Beach Residents Association monitored the project since it was first proposed as a bed and breakfast hotel. She said that they are appreciative of the efforts **Mr. Zislis** has made in responding to the concerns of the neighbors; however, there is still a problem with noise. She said that the third level deck was originally planned to feature a Jacuzzi with screening from an elevator, stairs, and a storage room to create a solid sound barrier, which did not occur. She commented that there originally were not plans to include a kitchen, and the plans were later modified to include a kitchen which would provide breakfast to the guests and food service for catered events. She indicated that special events were originally limited to 60 people unless approval was given by the Community Development Director to exceed the limit; however the occupancy could not exceed the limit of the Building and Fire Code. She stated that they are not certain whether the current request to allow a maximum of 150 people without prior approval exceeds the Building and Fire Code limit. She commented that she does not agree with the argument that the residents should expect noise, as they purchased properties that are located adjacent to a commercial area. She commented that the applicant should have taken into account that the site was next to residents when they considered opening the hotel.

Jay Letterman stated that the hotel has enhanced the City greatly. He indicated that the proposal for extended hours is well within reason. He commented that the other restaurants in the area are open until 1:00 a.m. He indicated that **Mr. Zislis** is doing everything he can to mitigate the concerns of the residents. He indicated that he supports the additional hour of operation for the hotel.

Barrett Patel, representing the Manhattan Beach Lodging Association, stated that they support the proposal. He indicated that the hotel business is very competitive. He commented that he originally was not certain that the Shade could be successful because of the restrictions that were placed on its operation. He indicated that **Mr. Zislis** has done an excellent job in making the hotel successful. He stated that noise in the downtown area is generated from many sources. He commented that the mitigation measures the applicant has taken to accommodate the neighbors are beyond what should be expected from an operator.

John Mascow, a resident of Ardmore Avenue, said that the hotel brings a high quality of clientele to the downtown area. He said that the request is completely reasonable.

Dan Pardlow indicated that he supports the proposal. He indicated that **Mr. Zislis** is offering a great number of concessions in order to remain open for two additional hours per week. He commented that **Mr. Zislis** has agreed to all of the conditions that the Commission is requesting and has had meetings with the neighbors. He indicated that **Mr. Zislis** is always the first to support community groups, and he is a very good community advocate. He commented that the reason housing values increase in the City is because of good business operators such as **Mr. Zislis**.

Greg Tirateli, a resident of Redondo Beach, said that it is important to have members of the community who continue to bring value and stability as change occurs. He indicated that **Mr. Zislis** has brought value to the community with the hotel and his other businesses. He indicated that the South Bay has a great amount of traffic and noise because of the tremendous amount of growth. He indicated that people spend a great deal of money in Manhattan Beach because of operations like the Shade. He pointed out that property values did not lower because the commercial area has grown. He stated that businesses bring jobs and value to the community. He indicated that he supports the proposal.

Karol Wahlberg commented that she agrees that **Mr. Zislis** has contributed to the community. She indicated, however, that businesses should be supported without additional impact to the residents. She commented that the issue is not regarding the overall property values of homes in the area but rather regarding the values of the homes that are directly impacted by the noise generated from the hotel. She commented that homeowners whose property values are lowered as a result of the noise impacts have little ability to move to other areas of the City where there is not the same impact. She commented that the businesses that the City should attract are those that support the people who live in the community.

Mary Ann Varni, a Manhattan Beach resident, commented that properties are developed very close to each other in the Beach Area, and there are going to be issues with noise. She stated that the Metlox development has added greatly to the downtown area. She said that the hotel has not attracted conventions and large groups of people. She said that she appreciates the contribution of the hotel to the community.

Rich Walker, a Manhattan Beach resident, said that he is proud to have the hotel in the community, and the hotel treats their guests very well. He indicated that **Mr. Zislis** operates a great business, and he supports the proposal.

Andre Gonzales, a Manhattan Beach resident, said that he supports the hotel and the proposed request for additional hours and food service. He said that the people he has brought to the hotel have great comments. He commented that he feels the applicant is overly restricted and should have the opportunity to maximize the potential of the hotel.

Wendy Connely, a Manhattan Beach resident, said that the issue is not regarding the character of the owners, and the hotel will still remain if the operator changes. She pointed out that her understanding is that the petition provided by the applicant was generated over the previous weekend from customers at the bar. She said that she is not certain as to whether all of the people who signed the petition are Manhattan Beach residents and whether that is a consideration for the validity of the petition.

Chairperson Seville-Jones commented that the petition does indicate whether the people who have signed are residents of the City.

Jackie Coweiser, a resident of the 500 block of 13th Street, said that she can hear every conversation at the hotel from her home. She commented that she is a teacher and needs to

have sufficient sleep during the week in order to wake up early for work. She suggested that the operating hours be reduced on Sunday through Thursday to 10:00 p.m. in exchange for allowing extended hours to midnight on Friday and Saturday nights. She also commented that there is a vacuum that makes a great deal of noise after the hotel closes.

Kelly Finnerty, a Manhattan Beach resident, commented that she questions whether the noise disturbances that occur after the hotel has closed are a result of the hotel or other downtown establishments. She stated that she is an employee of the hotel and has never felt more a part of the community. She indicated that she feels the character of the employees of the Shade is very relevant, as it shows that they are willing to work with the community.

Milo Bacic, a resident of 10th Place, said that there are many sources of noise in the downtown area. He lives next to Vons and the deliveries late at night and early in the morning are disruptive. He commented that there is a great deal of noise from cars and trucks speeding along Valley, people returning to their cars from the downtown bars, and the Fire and Police vehicles. He indicated that many people park for free at night in the City parking lot on Valley. He said that the hotel is asking to extend their hours to better match the hours of the other restaurants in the Metlox development. He commented that the hotel has been forced to lay off employees, and seven nearby businesses have recently closed in the area.

Mr. Zislis said that the police have come to the hotel to check on noise complaints and have found no disturbances. He indicated that there is a solid barrier to block noise from the rooftop deck. He pointed out that he did not hide anything from the City in his original plans for the hotel. He indicated that the number of people at special events never exceeds the maximum occupancy as required by Code. He stated that the value of residential properties adjacent to the downtown area is higher because people want to be located near the shops and restaurants. He commented that the petition that he submitted was gathered over the previous weekend, and they tried to qualify the people who signed as Manhattan Beach residents. He indicated that noise after the hotel closes is an issue of people returning to the City parking lot in Veterans parkway from other downtown businesses and not from the hotel. He said that they do not run a vacuum after they close as mentioned by **Ms. Coweiser**. He commented that he would not be opposed to closing earlier on Sunday evenings, as there usually are not more than 20 people in the lounge area.

Chairperson Seville-Jones said that although **Mr. Zislis** has been very innovative in arriving at ideas for mitigating noise, there continues to be an impact to the neighbors resulting from patrons leaving the establishment which would be increased if the hours are extended.

Mr. Zislis said that a great deal of the noise from people on the street late at night would be reduced if the City parking lot off of Valley were closed at midnight.

Chairperson Seville-Jones closed the public hearing.

Discussion

Commissioner Lesser said that he observed during his visit to the area that a good deal of noise was coming from the use of the common Metlox patio and by other businesses. He indicated that a good deal of noise was emanating through the curtains on the outside patio area to the south. He said that his recollection is that staff has been reluctant to allow an accordion type of barrier on the exterior of the hotel because it would interrupt the overall flow of patrons through the common Metlox plaza area. He asked about the potential for an additional sound barrier for the south patio if it is found to be a significant source of the noise that is disturbing the neighbors.

Planning Manager Jester said that the intent is to maintain the patio areas as outdoor space.

Director Thompson said that any type of option for creating an additional sound barrier can be considered. He commented that the Commission may first want to discuss whether they would be willing to allow an extension of hours under any condition.

Commissioner Paralusz commended all of the members of the public who have provided their input and express their views. She commented that a great deal of the problem with the noise level is because the hotel has become very successful, which is a credit to the applicant. She said that she would be willing to consider extending the hours on Friday and Saturday nights until midnight with restrictions in other areas. She indicated that she would support considering the possibility of reducing the hours during the week. She suggested considering the possibility of directing patrons to exit out of the west side after 10:00 p.m. She indicated that she also does not feel that the noise level after 10:00 p.m. or 11:00 p.m. is only from the hotel but also from other businesses in the downtown area. She said that people who visit the bars in the downtown area may be congregating at the parking lot on Valley late at night. She indicated that the residents also have the right to the enjoyment of their property at a certain point. She stated that she hopes that a compromise can be reached between the applicant and the residents. She indicated that the businesses and residents need each other in order for the City to function, as the businesses bring in tax revenue which provides services to the residents.

Commissioner Andreani said that she observed during her visit to the site that noise was being generated from the patios at Sashi and Petros as well as the outside terrace at the Shade. She indicated that the noise level increased when the doors were open to the Zinc lounge. She commented that the current noise issues need to be addressed before the subject proposal is considered. She indicated that the original intent of the hotel was to draw people to the downtown area who would patronize the nearby shops and restaurants. She said that she feels there is some level of competition in the applicant wishing to operate to the same hours as the other restaurants in the Metlox development. She indicated that she feels that a noise report needs to be obtained from an independent certified noise expert before an extension of the hours can be considered. She said that she would also like further information regarding the ratio of food to alcohol sales to demonstrate compliance with the ABC requirement. She commented that her understanding is that the alcohol license is attached to the property or the business on the property, and she feels that the City is involved as the owner of the subject site. She stated that she also would like to consider possibly limiting the hours for the valet lot and the public parking lot on Valley. She said that she would also suggest the possibility of encouraging patrons to exit from the west side of the hotel, although some may still walk around to the east side. She commented that she appreciates that **Mr. Zislis** has been a successful business operator within the City; however, the issue of mitigating noise impacts is a separate issue. She indicated that she would suggest that the new Resolution be very clear as to such details as defining hotel guests and walk-in guests. She indicated that she needs further information before considering a change in the hours of operation, and she would only possibly

consider increasing the hours on Friday and Saturday evenings. She said that she would not support a sound wall along Valley similar to the sound wall behind Manhattan Village.

Commissioner Lesser said that he could potentially support an extension of the hours of operation for the hotel with further information. He indicated that he would like more comprehensive information to address the noise concerns of the residents with the current operation. He suggested that an acoustic study be done to help establish the source of the noise concerns. He said that the applicant has been proactive in attempting to address the noise; however, he would like for a more substantive plan for noise mitigation measures to be provided. He said that he also would like for the possibility to be considered of directing patrons to exit on the west side of the property after a certain hour, although the current exit may need further improvements. He also suggested the possibility of allocating additional hotel staff to monitor the area on evenings where there is noise. He commented, however, that it may not be fair for the extra expense to be imposed on the applicant, as the noise also is generated from other businesses. He commented that it also may be difficult for hotel staff to tell patrons to reduce their noise level, as no laws are being violated if the permitted decibel level is not being exceeded. He said that he wants to support the applicant and respects that **Mr. Zislis** has created a very successful operation; however, he is looking for further information in order to mitigate the impact of noise to the adjacent residents. He commented that although the adjacent residents did buy property next to a commercial area, they did not expect such a large development with the Metlox project.

Commissioner Paralusz pointed out that the vacuum referenced by **Ms. Coweiser** may actually be street sweeping. She asked whether staff could investigate whether the street cleaners operate during later hours.

Chairperson Seville-Jones stated that it is hard to argue with the other Commissioners who would like further information on sound mitigating measures to accommodate the applicant who has been a model business owner in the City. She indicated that the ideas presented by **Mr. Zislis** for mitigating noise are remarkable, and it is not disputed that the applicant is an exceptional operator and a good neighbor. She indicated that she is not convinced that objective solutions are going to be found for her to support allowing the extension of hours. She pointed out that all of the mitigation measures that are currently in place have not solved the noise impacts to the nearby residents. She said that she will have difficulty in reaching a conclusion that the extension of the hours will not have a further impact to the neighbors until the noise issues with the current operation are fully addressed .

Chairperson Seville-Jones indicated that the entrance of the hotel does face Valley and the adjacent residences. She said that noise emanates from the patio and roof of the hotel as well as from the Zinc lounge when the doors are opened. She commented that the hotel is not as shielded from the adjacent residents as Petros and Sashi. She indicated that she would like to be able to grant the applicant the request for two additional hours of operation each week; however, she is very concerned that the noise is disturbing the sleep of the neighbors. She said that she agrees that the hotel is not responsible for the entire noise problem. She commented, however, that she cannot conclude that extending the hours for the hotel will help the issue. She pointed out that the residents originally thought that the hotel would be a different type of operation than it has become. She stated that **Mr. Zislis** did originally agree to the current hours, and the residents have indicated that they do not want the hours increased from the original agreement. She commented that she does not agree that the City should investigate whether there is a violation of the alcohol license for the hotel, as there is a procedure that is regulated by the ABC. She said that she does not believe that the hotel is in violation of the Conditional Use Permit.

Director Thompson indicated that after listening to the discussion, it appears that it may be possible to reach a compromise with possibly of extending the hours on Friday and Saturday nights with proper noise mitigation measures.

Commissioner Paralusz said that she feels more information regarding additional mitigation measures before she can make a decision regarding extending the hours.

Director Thompson indicated that staff will provide the Commissioners with a list of further measures that can be taken to help mitigate the noise including the possibility of exiting patrons to the west side of the property.

Chairperson Seville-Jones suggested that the applicant provide a list of items that they will do to mitigate the noise in order to be granted an extension of an additional hour on Friday and Saturday nights. She commented that there needs to be more of a consensus from the neighbors before consideration is given to extending the hours.

Mr. Zislis suggested that the hearing be continued for two months in order to allow sufficient time to gather additional information from an acoustical engineer. He stated that he very much wants the extension of hours until midnight on Friday and Saturday nights and is willing to work to reach an agreement with the neighbors. He indicated that they are willing to return to the Commission with a solid plan. He also suggested that there be a one year review of any approval.

Action

A motion was MADE and SECONDED (Lesser/Paralusz) to **TABLE** the public hearing regarding Master Use Permit Amendment for modifications to the existing approvals for hours of operation, size of special events, dancing, food service, and installation of a glass wall between the lobby bar and hotel rooms at the Shade Hotel, Metlox Site, 1221 North Valley Drive (Manhattan Inn Operation Company, LLC)

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

F. DIRECTORS ITEMS

G. PLANNING COMMISSION ITEMS

H. TENTATIVE AGENDA

I. ADJOURNMENT

The meeting was adjourned at 11:05 p.m. to Wednesday, August 12, 2009, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director