

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development

FROM: Laurie B. Jester, Planning Manager

DATE: October 28, 2009

SUBJECT: Consideration of a Master Use Permit Amendment for Modifications to the Existing Approvals for Hours of Operation, Size of Special Events, 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- Michael A. Zislis, President)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE CONTINUED PUBLIC HEARING, DISCUSS,** and **PROVIDE DIRECTION.**

PROPERTY OWNER

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

APPLICANT

Manhattan Inn Operation Company
1221 North Valley Drive
Manhattan Beach, CA 90266

PROJECT OVERVIEW

The Metlox project was approved by the City Council in July 2002 and includes a two-story subterranean public parking structure accommodating approximately 460 cars with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area. The commercial development includes a 38-room hotel, the Shade Hotel.

The Shade Hotel is requesting that four changes be made to the existing Master Use Permit as follows: 1-Extension of hours of operation, 2- An increase to 125 people for special events (weddings, parties, etc.) without administrative approval, 3- A full-service restaurant (breakfast, lunch and evening “small plates”), and 4- A glass wall to create an enclosed hallway separating the lobby bar from the interior hotel courtyard. The current approval allows hours until 11:00 PM for the lobby bar and outside terrace and 10:00 PM for the roofdeck, 99 people for special events, limited food service for guests, and an open walkway separating the lobby and the hotel courtyard.

BACKGROUND

The Metlox project is the culmination of many years of community participation and input through workshops and meetings. The previous staff report provides a complete summary of some of the key milestones for the Metlox site. The following are some of the highlights related to the Shade Hotel and other Use Permit Amendments for the site:

July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council- (CC Resolution No. 5770)

April 2004- Shade Hotel construction commenced

December 2005- Shade Hotel opened

May 2005- Shade Hotel Use Permit Amendment approved to allow full alcohol service throughout the Hotel to the general public as well as guests (as required for conformance with the State ABC license), and to increase the number of people allowed at special events from 60 to 99. (PC Resolution No. 05-08)

December 2005- Petros Use Permit Amendment to allow the restaurant to remain open one more hour, with closing times of 12:00 am (midnight) Sunday –Thursday, 1:00 am Friday and Saturday and to allow limited alcohol sales for off-site consumption

May 2008- Le Pain Quotidien Bakery Use Permit Amendment to allow service of limited beer and wine with food 10:00 am to 7:30 pm, seven days a week.

On June 24, 2009 the Planning Commission conducted a public hearing, took public testimony, discussed the project, provided direction to staff and continued the public hearing to the July 22nd meeting. At that meeting the Commission heard from a number of neighbors and residents with concerns about the existing hotel operation and the proposal to extend the hours of operation and modify the business operations. The main concern that the neighbors have is noise, particularly later at night.

While the Commission acknowledged that the applicant had made a number of physical and operational improvements over the years to address neighbors concerns, they felt that the current noise issues would need to be addressed before they would consider any extension of operating hours. The Commission requested that staff have an independent acoustic study conducted to evaluate the existing noise levels and possible mitigation measures to minimize noise impacts. The applicant agreed and suggested that the hearing be continued for several months to allow time to conduct the study. Based on this direction staff contacted two acoustical consultants who provided proposals for a noise study for the Shade Hotel. The City interviewed the consultants and selected one that staff felt was most qualified. The applicant deposited money into a City trust deposit account to pay for the study and the City entered into a contract with the consultant, Behrens and Associates, to prepare the report. The noise impact and mitigation evaluation report is included as Exhibit A.

PROJECT DESCRIPTION AND DISCUSSION

At the June 24th meeting the applicant stated that the request to allow dancing throughout the facility during all hours of operation for all customers, instead of limiting dancing to guests at special events only, was not really necessary and that request was withdrawn. At the June 24th meeting the Commission conducted the public hearing, and at the conclusion asked the applicant to meet with the neighbors and a noise expert and come up with specific proposals to mitigate noise impacts. The item was continued to July 22nd. At the July meeting the Commission heard further testimony from the neighbors concerning noise impacts, particularly during midweek and later at night, and the applicant presented a revised proposal to further limit the proposed hours of operation. The adopted minutes as well as the staff report from the July 22nd meeting, which provide a more comprehensive discussion, are included as Exhibits B and C. The following is a summary of the proposed Use Permit Amendment.

1. **Hours-**

Original- The original request was to allow an extension of hours for all locations in the hotel from 6:00 am until 12:00 am (midnight) Sunday through Thursday, and until 1:00 am Friday and Saturday as well as nights before Holidays and New Years Eve.

Revised- The revised request is for Sunday through Wednesday 11:00 PM in the lobby bar and 10:00 PM on the skydeck, Thursday 11:30 PM in the lobby bar and 10:00 PM on the skydeck, and Friday, Saturday and nights before holidays (New Years and AVP) 12:00 AM midnight in the lobby bar and 11:00 PM on the skydeck. Alcohol service is requested to stop 15 minutes prior to closing.

The current approval allows hours until 11:00 pm for the lobby bar and outside terrace and 10:00 pm for the roofdeck (with alcohol service stopping 1 hour prior). The interior courtyard is allowed to have special events (weddings, parties, etc.) up until 11:00 pm Sunday-Thursday and 12:00 am (midnight) Friday and Saturday (with alcohol service stopping ½ hour prior).

2. **Special Events-**

Allow an increase to 150 people for special events without City notification. The current approval allows 99 people for special events.

3. **Food Service-**

Allow full food service, with the same hours as above, open to the public (breakfast, lunch and evening “small plates”). The approval currently allows limited food service only for hotel guests, with breakfast served from 6:00 am to 10:00 am Monday-Friday and 6:00 am-11:00 am Saturday and Sunday, no lunch service and room service at any time. Evening appetizers may be served to the general public, and the ABC license requires that food be available when alcohol is sold. Full food service for guests at special events is allowed.

4. **Wall-**

Allow installation of an openable accordion glass wall to separate the lobby bar from the interior hotel courtyard, instead of the open walkway that currently separates the lobby

and the hotel courtyard. This would create an enclosed hallway to separate the lobby from the hotel courtyard and rooms. This new hallway also connects the Zinc bar with the public restrooms and the rear entry/exit staircase to the west.

Noise Impact Report

Behrens and Associates, Inc. Acoustic, Noise and Vibration Consultant prepared a Noise Impact and Mitigation Evaluation Report in accordance with the request from the Planning Commission and as managed by planning staff. The Manhattan Beach Municipal Code provides two standards for evaluating noise. Section 5.48.160 establishes decibel level standards, and as an objective standard this is the standard that is used to evaluate impacts and mitigation in the Behrens report. Section 5.48.140 establishes a “reasonable person standard”, and this technical report does not address this subjective standard. (Exhibit A)

Staff discussed these two standards with the City Attorney who indicated that for land use decisions, such as this Master Use Permit Amendment, that it is appropriate for the Planning Commission to consider all sorts of evidence. This would include the noise study with the objective standards, neighbors and patrons testimony which is the subjective standard, as well as the Use Permit and General Plan findings.

For the Behrens report, sound level measurements were taken between September 5th and 19th. Although the report concludes that the objective decibel level standards established in the Code are not currently exceeded, it states that there is a potential for the noise standards to be exceeded during the early morning hours if hours are extended and additional sound mitigation is not implemented. This is due to a decrease in traffic volumes and ambient or background noise levels in the area, which would then cause the Shade noise level to be more audible.

The interior courtyard of Shade was not found to be a significant source of noise. Additionally Petros, Sashi, and the Metlox Plaza were also not found to be a significant source of noise with the exception of the rooftop equipment at Petros. The report found that any human noise within the Metlox area after 10 PM was almost exclusively produced by the Shade customers.

The noise report provides a detailed analysis of the noise sources and their impact on the surrounding area. Noise is categorized into three types.

- 1- Steady state from Shade
- 2- Occasional short-duration, high-level noises from Shade
- 3- Noise generated along Ardmore Avenue and Valley Drive from the general public

The first two categories were studied and modeled in the report. The three dimensional noise modeling maps provide a visual representation of the existing noise sources as well as how various noise mitigation will potentially impact those noise sources. The report concludes that there are three main locations where there are noise impacts in the residential area and three main areas at the Shade Hotel that impact the residents.

Staff Discussion

Staff believes that the noise report provides the information requested from the Planning Commission. Staff has discussed the Shade Hotel operations with the Police Department and a representative from the Department that has been dealing with the hotel, the neighbors and the noise issues will be at the Planning Commission meeting to respond to questions from the Commission. The Police Department has indicated to staff that the State Department of Alcoholic Beverage Control (ABC) regulations require that when a facility closes there can be no alcohol present in any public areas. Staff believes this would be a good way to regulate and restrict activity within the hotel. These restrictions would apply to hotel guests, private parties and the general public. After the closing hour alcohol would only be available to hotel guests in their private rooms. This is consistent with how the ABC enforces their alcohol regulations.

Staff believes that there needs to be a balanced approach with this request, and that the Planning Commission should focus on how best to minimize and mitigate impacts to the neighbors associated with the Shade Hotel operations, as well as recognize that the hotel is a 24-hour operation, however the bar is not. If the Planning Commission feels that they can support extended hours for the Shade Hotel then staff would suggest the following revisions to the Use Permit based on the findings and potential mitigation as detailed in the noise report and as outlined below. Staff could not support extended hours without the mitigation indicated below.

GREATEST NOISE IMPACT AREAS AND MITIGATION			
Residential Location	Shade Location	Possible Mitigation	Staff Recommended Mitigation
North of 13 th Street	Skydeck/Rooftop deck	Enclose Deck, limit hours	Continue Limited Hours
Between 12 th and 13 th Street	East Entrance and Terrace-south side	Exterior Entry Vestibule, Interior Lobby Wall/Doors	Interior Lobby Wall/Doors
South of 12 th Street	Terrace- south side	Moveable Sound Barrier in corridor between Shade and Petros, Enclose Terrace, relocate customer queue to west	Enclose Terrace, relocate customer queue (entry and exit) to west
General	Walkway between lobby Zinc bar and interior courtyard	Wall to create enclosed hallway	Wall to create enclosed hallway

SHADE HOTEL HOURS OF OPERATION			
LOCATION	CURRENT	APPLICANTS PROPOSAL	STAFF RECOMMENDATION WITH MITIGATION
Lobby Bar	11:00 PM Daily	11:00 PM Sun-Wed 11:30 PM Thursday 12:00 AM midnight Fri-Sat and nights before Holidays	11:00 PM Sun-Thursday 12:00 AM midnight Fri-Sat 1:00 AM New Years Eve
Terrace/patio- south side			
Interior Courtyard- Special Events only	11:00 PM Sun-Thurs 12:00 AM midnight Fri-Sat		
Skydeck/rooftop deck	10:00 PM Daily	10:00 PM Sun-Thursday 11:00 PM Fri-Sat and nights before Holidays	10:00 PM Daily
<p>Alcohol service to stop as follows: Current- Skydeck 1 hour prior and the interior courtyard 1/2 hour prior to closing Applicants Proposed- Throughout 15 minutes prior to closing Staff Recommendation- Skydeck 1 hour prior to closing and everywhere else 1/2 hour prior to closing</p>			

Master Use Permit and Coastal Permit

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

The Coastal Development Permit for the original Master Use Permit was issued by the California Coastal Commission and because there are no relevant coastal issues related to the subject application an amendment to the Coastal Permit is not required.

CONCLUSION

The project before the Planning Commission is an Amendment to the Master Use Permit for the Shade Hotel. At the June 24th and July 22nd meetings the Commission was generally in agreement with the proposals for special events, food service, and the glass wall. The area where the Commission felt that more information was needed was the proposal to increase the hours of

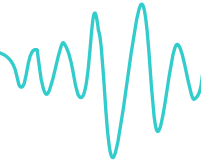
operation. A report and recommendations from a noise consultant has been provided. Staff recommends that the Planning Commission review the information presented in the report, open the continued public hearing, discuss the project, and provide direction. Staff will return at the next meeting with a Resolution for adoption detailing the revisions based on the Planning Commission action.

ATTACHMENTS

- Exhibit A: Behrens and Associates, Inc- Shade Hotel Noise Impact and Mitigation Evaluation Report – October 21, 2009
 - Exhibit B: Use Permit Section of MBMC- Sections 10.84.060 and 10.84.070
 - Exhibit C: July 22, 2009 Planning Commission adopted minute excerpts
<http://www.citymb.info/Index.aspx?page=1367>
 - Exhibit D: July 22, 2009 Planning Commission Staff report and attachments
<http://www.citymb.info/Index.aspx?page=1367>
 - Exhibit E: E-mail from Nate Hubbard- October 20, 2009
- c: Mike Zislis- Shade Hotel
Jon Tolkin- Tolkin Group
Glenn Loucks- Tolkin Group

Behrens and Associates, Inc.

Acoustics, Noise and Vibration Consultants



October 21, 2009

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

Attention: Laurie Jester, Planning Manager

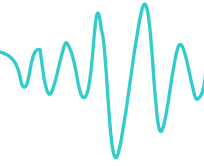
Subject: Shade Hotel Noise Impact and Mitigation Evaluation Report

Dear Ms. Jester,

We have completed the noise impact and mitigation evaluation and City Code compliance evaluation for the Shade Hotel, located at 1221 N Valley Drive, Manhattan Beach, California. This report provides an assessment of the current noise impacts generated from the Shade Hotel and provides an analysis of various noise mitigation options, along with an assessment of the noise levels measured relative the City's Municipal Code objective noise standards. The subjective "reasonable person" standard is not evaluated in this report.

Executive Summary

Sound level measurements taken between September 5 and 19, 2009 indicate that the noise generated from the Shade Hotel does not exceed the objective noise standards in the City's Municipal Code. Although our measurements have shown the hotel noise levels to be in compliance with the City's objective noise standards, there is potential for the noise standards to be exceeded during the early morning hours if the hotel's closing time is extended if additional sound mitigation systems are not employed. The relative contributions of different sources to the total noise level vary at different locations within the residential community. At locations north of 13th Street, the greatest contribution comes from the rooftop deck noise. At locations between 12th Street and 13th Street, the relative contributions of the noise from the east entrance and south terrace increase. At the houses south of 12th Street, the south terrace noise is the dominant source. The noise propagating from the north windows of the Zinc lounge (within the hotel's inner courtyard) contributes relatively little to the overall noise level at any location within the adjacent residential community. A three-dimensional noise impact model was developed to assess the performance of various mitigation measures proposed for reducing the noise from the Shade Hotel. The proposed east entrance vestibule to the hotel is of limited benefit and an alternative solution involving the construction of a wall in the entrance lobby has been proposed. The open terrace and Zinc lounge south entrance noise, including the customer queue area could be reduced significantly by installing an acoustically rated barrier across the corridor between the Shade Hotel and Petros. The relocation of the customer queue will have little effect on the noise levels at the residences but may be a mitigation measure to consider in the future if the terrace is enclosed. The rooftop deck was modeled with a roof enclosing the area. Other than restricting the hours of use of the rooftop deck, enclosing this area is the most effective way to reduce the noise generated from this source.



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1. Assessment of the Shade Hotel Noise Relative to the City of Manhattan Beach Municipal Code

1.1 City of Manhattan Beach Municipal Code Noise Standards

The City of Manhattan Beach Municipal Code contains exterior noise standards for residential properties. Three types of standard are provided in the Code, these are:

1. A ‘tiered’ standard, which allows different noise levels to be produced for different cumulative periods during an hour. These limits are provided in Table 1-1.
2. An average noise level standard. These limits are provided in Table 1-2.
3. A subjective standard, which prohibits loud, unnecessary and unusual noises that disturb the peace and quiet of any neighborhood, or which cause discomfort or annoyance to any reasonable person of normal sensitiveness. This standard is enforced by the City’s Police Department and is not considered in this report.

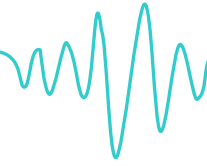
Table 1-1. City of Manhattan Beach Exterior Residential Tiered Noise Level Limits

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	50.0	45.0
15 minutes in an hour	55.0	50.0
5 minutes in an hour	60.0	55.0
1 minute in an hour	65.0	60.0
Maximum level	70.0	65.0

Table 1-2. City of Manhattan Beach Exterior Residential Average Noise Level Limits

	Noise level that may not be exceeded (dBA)	
	Daytime (7 am to 10 pm)	Nighttime (10 pm to 7 am)
Average Noise Level	55.0	50.0

When the measurement location is on a boundary between two different land use classifications, the noise level limits applicable to the more restrictive land use classification plus



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five dB shall apply. This correction applies to all the limits in Tables 1-1 and 1-2 for the houses near the Shade Hotel. The resulting noise limits that apply are provided in Table 1-3.

Table 1-3. City of Manhattan Beach Exterior Noise Level Limits with Land Use Correction

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	55.0	50.0
15 minutes in an hour	60.0	55.0
5 minutes in an hour	65.0	60.0
1 minute in an hour	70.0	65.0
Maximum level	75.0	70.0
Average Noise Level	60.0	55.0

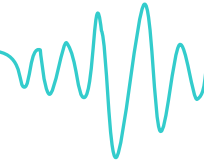
1.2 Noise Measurement Procedure

Noise measurements were made on the evening of Saturday September 12, 2009 at four locations along Ardmore Avenue between 9 pm and 11 pm. During these measurements a party was taking place on the Shade's rooftop deck.

Additional measurements were made at the same four locations at the same time of day on Monday September 14 in order to document the noise levels on a night during which no music was being played and there were relatively few people in the Zinc lounge. The noise measurement locations for the assessment of the Shade noise relative to the City Municipal Code are provided in Table 1-4 and Figure 1-1.

Table 1-4. Noise Measurement Locations for Assessment of Impact Relative to the City of Manhattan Beach Municipal Code

Location No.	Description	Time of measurement
1	Third Floor Deck at Front of 1300 Ardmore Ave	9 pm - 11 pm
2	Front yard of 1212 Ardmore Ave	9 pm - 10 pm
3	Rear yard of 1212 Ardmore Ave	10 pm - 11 pm
4	Third Floor Deck at Front of 1148 Ardmore Ave	9 pm - 11 pm



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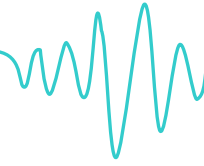
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Figure 1-1. Noise Measurement Locations for Assessment of Impact Relative to the City of Manhattan Beach Municipal Code



Table 1-5 provides the measured noise levels at each of the measurement locations for the Saturday evening measurements. The Monday evening measurements are provided in Table 1-6.



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Table 1-5. Saturday Evening Measurements on Ardmore Avenue

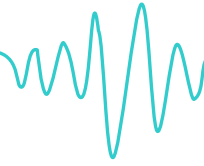
Cumulative duration	Noise levels exceeded (dBA)			
	Location 1. 1300 Ardmore Avenue	Location 2. Front of 1212 Ardmore Avenue	Location 3. Rear of 1212 Ardmore Avenue	Location 4. 1148 Ardmore Avenue
30 minutes in an hour	55.4	53.3	46.6	58.9
15 minutes in an hour	58.2	55.4	47.7	60.8
5 minutes in an hour	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

Table 1-6. Monday Evening Measurements on Ardmore Avenue

Cumulative duration	Noise levels exceeded (dBA)			
	Location 1. 1300 Ardmore Avenue	Location 2. Front of 1212 Ardmore Avenue	Location 3. Rear of 1212 Ardmore Avenue	Location 4. 1148 Ardmore Avenue
30 minutes in an hour	53.9	51.7	43.9	58.0
15 minutes in an hour	57.1	53.7	45.2	60.2
5 minutes in an hour	62.1	59.2	47.5	63.6
1 minute in an hour	65.9	65.8	50.2	66.8
Maximum level	70.9	72.9	55.6	75.4
Average Noise Level	57.4	55.6	45.0	60.2

The noise sources at the Shade Hotel that are experienced at the houses on the east side of Ardmore Avenue on a Saturday night are:

- Music and shouting at the outdoor terrace on the south side of the hotel, including noise produced by patrons waiting to enter the Zinc lounge.
- Music and shouting from events held on the rooftop deck of the hotel.
- Music and shouting from inside the Zinc lounge, which propagates out through the east and south entrances, as well as into the courtyard area.



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Other noise sources associated with hotel patrons include:

- Noises from customers arriving and leaving the hotel, including talking and noises associated with taxis dropping off and picking up customers.
- People talking while walking along Valley Drive and Ardmore Avenue.
- Activities in the parking lot between Ardmore Avenue and Valley Drive.

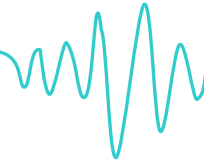
Ambient sources of noise include:

- Traffic on Ardmore Avenue, Valley Drive and Manhattan Beach Boulevard.
- Mechanical equipment noise, primarily from the equipment above Petros.
- Additional talking and shouting on Ardmore Avenue and Valley Drive.
- Sprinkler systems in the landscaped area between Ardmore Avenue and Valley Drive.
- Additional activities in the parking lot between Ardmore Avenue and Valley Drive from people not associated with the hotel.
- Barking dogs.
- Aircraft.

1.3 Comparison of Measured Noise Levels with Municipal Code Standards

The measured noise levels in Tables 1-5 and 1-6 indicate that the noise from the Shade Hotel does not exceed the objective noise standards in the City's Municipal Code at any of the four measurement positions. While the measured noise levels on the Saturday night are generally above the noise standards, these levels are primarily due to ambient traffic noise and not noise from the Shade Hotel. The general increase in noise levels seen on a Saturday night compared to a Monday night may be due, in part, to noise from the hotel and also to increased traffic volumes. However, the small increase seen on a Saturday night indicates that the noise from the hotel is below the ambient level. This is confirmed by our observations during the measurements.

Although our measurements have shown the hotel noise levels to be in compliance with the City's noise standards, there is potential for the noise standards to be exceeded during the early morning hours if the hotel's closing time is extended. This is due to decreased traffic volumes, and therefore decreased ambient noise levels, during those hours. Further discussion of the ambient noise level is provided in Section 1.4.



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1.4 Continuous Noise Monitoring

In addition to the measurements used to assess the hotel noise relative to the City's Municipal Code limits, continuous noise measurements were made during a weekend at three locations. These were at the third floor deck of 1148 Ardmore Avenue (Location 4 in Figure 1-1), above the roof of the bar at the Shade's rooftop deck area and adjacent to the hotel's south terrace in the corridor between the Shade and Petros.

Graphs of the hourly average noise levels measured at the three locations are provided in Figure 1-2. The graphs show that during busy periods and special events, the noise levels at the rooftop deck and terrace increased relative to periods when the two areas saw little use. Increased levels due to noise from events held on the rooftop deck can be seen in the data measured at this area between 9 pm and 11 pm on the Saturday and between 5 pm and 8 pm on the Sunday during the weekend of measurements. The data from the measurement adjacent to the terrace area shows increased levels from approximately 7 pm to 12 am on the Friday and Saturday and from 2 pm to 5 pm on the Sunday. However, corresponding increases in noise levels are not shown in the data measured at 1148 Ardmore Avenue, further indicating that the noise from the Shade, while clearly audible at the property, does not significantly increase the noise level there. The daily fluctuations in noise levels measured at 1148 Ardmore Avenue are typical of those produced by urban traffic noise and do not reflect noise from the hotel.

The source of the increased noise levels at the terrace measurement location seen between 6 am and 8 am on the Monday morning is unknown, but is probably due to a source of noise local to this location such as landscape or other maintenance activity in the area.

As mentioned in the previous section, the Shade is currently in compliance with the City's objective noise limits during the existing hours of operation. However, the noise level data measured on Monday night and early Tuesday morning at 1148 Ardmore Avenue shows that the average ambient hourly noise level decreases from 57 dBA between 11 pm and 12 am to 53 dBA between 1 am and 2 am at this location. Analysis of the measured hotel noise levels used for the three-dimensional modeling presented in the following section indicates that this decrease in the ambient level could lead to exceedances of the City's noise limits by the hotel.

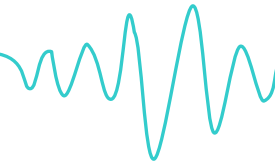
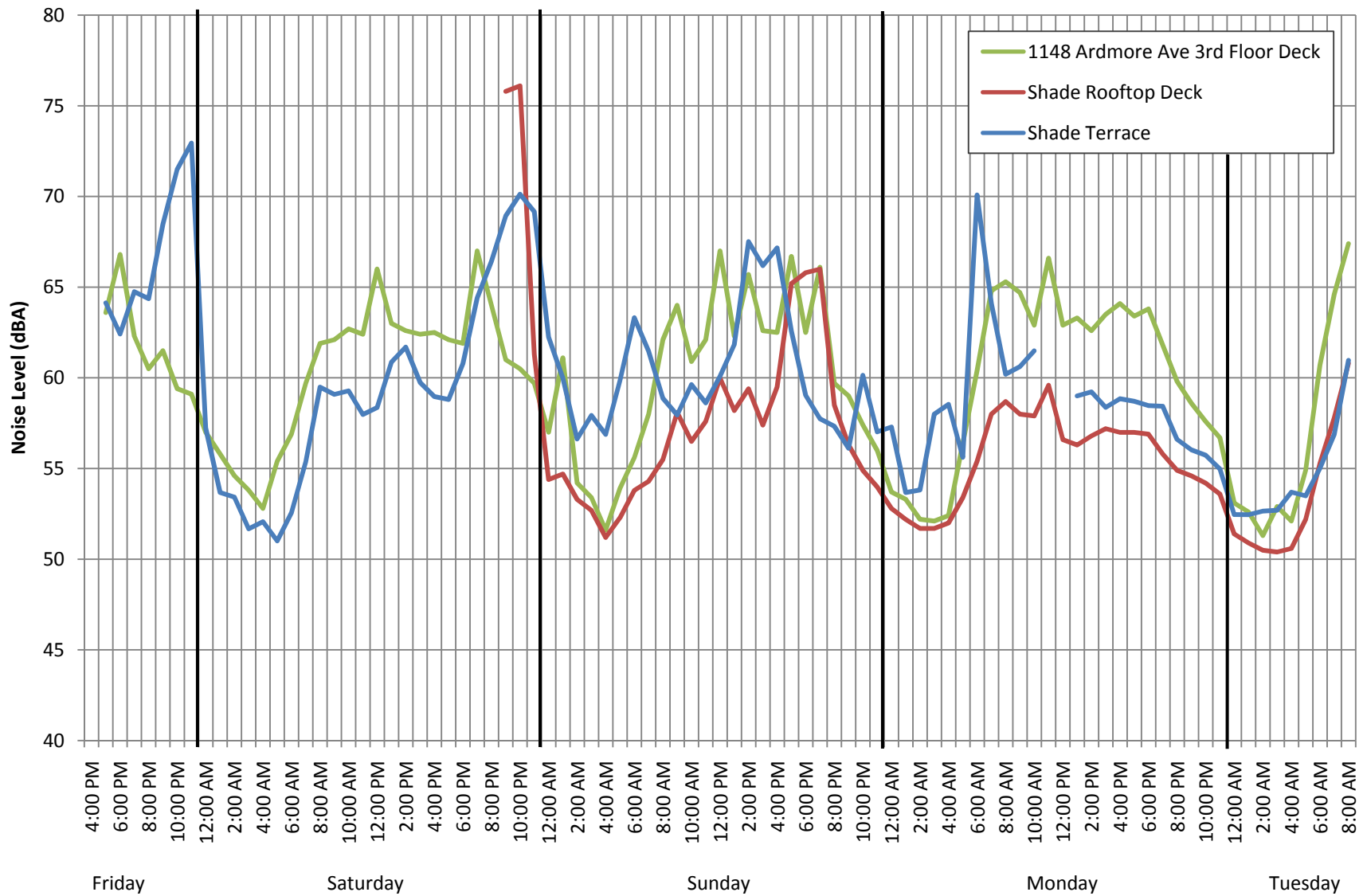
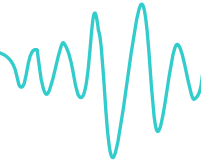


Figure 1-2. Continuous Noise Monitoring Hourly Average Noise Levels at Three Locations





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2. Three-Dimensional Modeling of Shade Hotel Noise

2.1 Noise Modeling Method

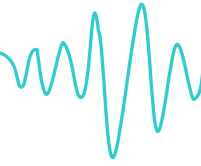
A three-dimensional noise model was constructed in order to assess the performance of various mitigation measures proposed for reducing the noise from the Shade Hotel. Measurements at the four positions shown in Figure 1-1 were used to calibrate the noise model, in addition to other measurements made within and around the hotel. Measurements were made both during a busy Saturday evening when a party was taking place on the rooftop deck and during an afternoon when a wedding was taking place in the courtyard. Further measurements were made on 12th Street and 13th Street; however it was not possible to use these measurements to calibrate the noise model as the ambient noise levels at these locations were too high relative to the noise from the Shade.

The noise model was constructed using SoundPLAN version 6.5. This noise model predicts noise levels based on the locations, noise levels and frequency spectra of the noise sources, and the geometry and reflective properties of the local terrain, buildings and barriers.

The noise from the Shade Hotel can be categorized into three types of noise. These are:

1. Continuous 'steady-state' noise such as music, talking and shouting in the Zinc lounge, rooftop deck and terrace area. The level of this noise stays relatively constant during the evening.
2. Occasional short-duration, high-level noises. These include shouts and screams from the rooftop deck and terrace, and noise leaking out from the Zinc lounge whenever the doors are opened.
3. Noises generated on Ardmore Avenue and Valley Drive, which may be associated with Shade customers but do not originate from the hotel itself. These noises are also short-duration, high-level noises and include noise from activities in the parking lot between Ardmore Avenue and Valley Drive, people walking along the sidewalks and taxis dropping off and picking up customers in front of the hotel.

Source Categories 2 and 3 do not contribute significantly to the average noise levels but may disturb the residents. Only source Categories 1 and 2 have been modeled in our analysis.



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The sound mitigation measures that were analyzed included:

- The addition of a vestibule to the east entrance of the hotel.
- The addition of a 12-foot-high moveable acoustically rated barrier across the corridor between Shade and Petros
- Enclosing the outdoor terrace to the south (an alternative to the moveable barrier across the Shade/Petros corridor) and relocating the customer queue to the rear of the hotel.
- The addition of an enclosed roof on the rooftop deck area.
- The addition of a wall at the south corridor of the hotel's inner courtyard area.

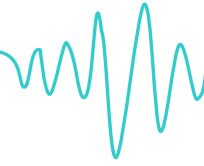
2.2 Noise from Petros and Sashi

In addition to noise from the Shade, noise is also generated by the adjacent restaurants, Petros and Sashi. The primary source of noise at these restaurants is customers' speech at the outdoor seating areas. It was observed that the noise from these restaurants gradually decreases after 9 pm. After 10 pm, the noise from these restaurants does not significantly contribute to the overall noise experienced at the residential area. Any human noise heard from within the Metlox area after 10 pm is almost exclusively produced by Shade customers. Therefore, no recommendations are provided to reduce noise from customers dining at Petros or Sashi. These customers may, however, be partially responsible for producing Category 3 noises within the parking lot between Ardmore Avenue and Valley Drive, and along the sidewalks of the roads.

In addition to the noise from customers, noise from the mechanical equipment above Petros can be clearly heard at the houses on Ardmore Avenue and 12th Street. This equipment produces higher noise levels than the equipment on the roof of the Shade.

2.3 Noise Modeling Results

The results of the noise modeling are presented in the form of noise contour maps. These maps are provided in order to allow the assessment of the average noise (from Category 1 sources) and the maximum noise (from Category 2 sources) produced by the various individual sources at the hotel both before and after installation of the proposed mitigation measures. Noise maps are also provided for the combined average noise levels for multiple sources at the hotel.



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Noise maps modeled at first floor locations are provided for all cases. Additional maps modeled at third floor locations are provided for cases where the rooftop deck noise is included since this source is of primary concern at upper levels.

The conditions modeled for each of the noise maps are provided in Table 2-1.

Table 2-1. List of Noise Maps

Figure No.	Noise Map Type	Sources Modeled	Elevation modeled	Mitigation
2-1	Average Level	All Saturday evening sources (rooftop deck, south terrace, customer queue, Zinc lounge entrances)	1 st Floor	None
2-2	Average Level	All Saturday evening sources (rooftop deck, south terrace, customer queue, Zinc lounge entrances)	3 rd Floor	None
2-3	Average Level	Front entrance (doors closed)	1 st Floor	None
2-4	Average Level	Rooftop deck (general speech/music)	1 st Floor	None
2-5	Average Level	Rooftop deck (general speech/music)	3 rd Floor	None
2-6	Average Level	South terrace and customer queue	1 st Floor	None
2-7	Average Level	South terrace and customer queue	3 rd Floor	None
2-8	Average Level	North Zinc lounge windows	1 st Floor	None
2-9	Maximum Level	Cheer from wedding event in courtyard	1 st Floor	None
2-10	Maximum Level	Front entrance (doors open)	1 st Floor	None
2-11	Maximum Level	Rooftop deck (high level shouting/screaming)	1 st Floor	None
2-12	Maximum Level	Rooftop deck (high level shouting/screaming)	3 rd Floor	None
2-13	Average Level	All Saturday evening sources (rooftop deck, south terrace, customer queue, Zinc lounge entrances)	1 st Floor	Entrance vestibule, enclosed terrace area, relocated queue, wall enclosing courtyard corridor, enclosed rooftop deck
2-14	Average Level	All Saturday evening sources (rooftop deck, south terrace, customer queue, Zinc lounge entrances)	3 rd Floor	Entrance vestibule, enclosed terrace area, relocated queue, wall enclosing courtyard corridor, enclosed rooftop deck



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Table 2-1. List of Noise Maps (cont'd.)

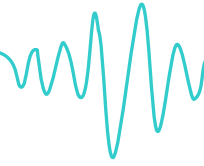
Figure No.	Noise Map Type	Sources Modeled	Elevation modeled	Mitigation
2-15	Average Level	Front entrance (doors closed)	1 st Floor	Entrance vestibule
2-16	Average Level	Rooftop deck (general speech/music)	1 st Floor	Enclosed rooftop deck
2-17	Average Level	Rooftop deck (general speech/music)	3 rd Floor	Enclosed rooftop deck
2-18	Average Level	South terrace and customer queue	1 st Floor	Customer queue moved to rear of hotel, 12' wall across Shade/Petros corridor
2-19	Average Level	South terrace and customer queue	3 rd Floor	Customer queue moved to rear of hotel, 12' wall across Shade/Petros corridor
2-20	Average Level	South terrace and customer queue	1 st Floor	Enclosed terrace area
2-21	Average Level	North Zinc lounge windows and customers exiting through inner corridor	1 st Floor	Wall at edge of courtyard to enclose inner corridor
2-22	Maximum Level	Front entrance (doors open)	1 st Floor	Entrance vestibule

2.4 Analysis of Results

2.4.1 Unmitigated Noise Maps

Figures 2-1 through 2-12 show noise maps for the existing unmitigated noise produced by the hotel. These maps were calibrated using our measurements on Ardmore Avenue and within the Shade Hotel. From these figures, it is observed that the relative contributions of different sources to the total noise level vary at different locations within the residential community. At locations north of 13th Street, the greatest contribution comes from the rooftop deck noise. On moving south along Ardmore Avenue, the relative contributions of the noise from the east entrance and south terrace increase. At the houses south of 12th Street, the south terrace noise is the dominant source. Figure 2-8 shows that the noise propagating from the north windows of the Zinc lounge (within the hotel's inner courtyard) contributes relatively little to the overall noise level at any location within the residential community.

Figures 2-1 and 2-2 indicate that the overall noise levels are higher with increased elevation above ground level. The relative contribution of noise from the different sources also varies depending on the height above ground level, with the rooftop deck becoming a more



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dominant noise source at higher levels. The noise level of the rooftop deck noise at the first and third floor levels is shown in Figures 2-4 and 2-5.

2.4.2 Entrance Vestibule

From Figures 2-3 and 2-15 it can be seen that the proposed east entrance vestibule will reduce the entrance noise by up to approximately 3 dB at the houses on Ardmore Avenue when the doors are closed. Figures 2-10 and 2-22 show that the reduction in maximum level noise seen when the doors are opened will be up to approximately 8 dB at the houses. While these reductions are large enough to be noticeable for this particular source at some residential locations, they are unlikely to justify the cost of the vestibule. The noise maps show that the vestibule will make little difference to the front entrance noise experienced at most houses on Ardmore Avenue. As a general rule, a mitigation solution must reduce noise by approximately 5 dB to be considered 'effective'.

2.4.3 South Terrace and Customer Queue

Figures 2-18 and 2-19 show noise maps of the south terrace and south Zinc lounge entrance noise with the customer queue relocated to the rear of the building and a 12-foot-high barrier across the corridor between the Shade and Petros. These mitigation measures reduce the noise from these sources by up to approximately 10 dB at first floor locations and 5 dB at second floor locations at the residences.

The reduction in noise levels is primarily due to the effects of the barrier on the terrace noise. The model indicates that the relocation of the customer queue will have little effect on the noise levels at the residences. This is because the major noise source at the south end of the hotel is patrons within the terrace area rather than those waiting outside.

2.4.4 North Zinc Lounge Windows and Customer Exit

Figure 2-21 shows the noise levels produced by customers exiting the premises when the exit has been relocated to the rear of the hotel and the inner corridor leading to the exit has been enclosed with a wall. The changed exit location increases the noise level to the rear of the hotel, although the noise produced by exiting customers is not as high as for the customers waiting to enter seen in Figure 2-18. An increase in the amount of noise propagating into the courtyard area is seen compared to the existing situation; however this is not a major source of noise during Friday and Saturday evenings.



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2.4.5 Courtyard Events

During the wedding noise measurements, noise from the guests was generally barely audible at the measurement location in front of 1212 Ardmore Avenue. The only measurable event was a single cheer, which produced a noise level of 55 dBA. Occasional cheers and applause were audible but below the ambient noise level. A noise map showing the one measurable event is provided in Figure 2-9. Music playing in the Zinc lounge and speeches made during the event using the amplifier system in the courtyard were, at times, just audible at the measurement location.

2.5 Proposed Alternative Mitigation Measures

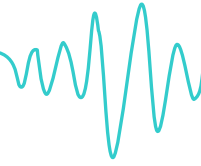
2.5.1 Front Entrance

As mentioned in the previous section, the proposed vestibule is fairly ineffective at reducing noise from the front entrance of the hotel. An alternative and more effective mitigation measure is to build an interior wall within the hotel lobby. This wall would stretch from the stairs by the east entrance to the south wall of the hotel as shown in Figure 2-23. For this wall to be effective, any doors within it would have to remain closed whenever possible. If this option is chosen, it is recommended that only hotel guests be able to operate the door and that a doorman be posted in the lobby area to welcome new guests. If designed and used appropriately, it is estimated that this wall could reduce the front entrance noise by approximately 15 dB. This option has not been modeled in our analysis.

2.5.2 Rooftop Deck

Although not a previously proposed mitigation measure, the rooftop deck was modeled with a roof enclosing the area. Other than restricting the hours of use of the rooftop deck, enclosing this area is the most effective way to reduce the noise produced. As seen when comparing Figure 2-4 with Figure 2-16 and Figure 2-5 with Figure 2-17, this mitigation measure has the potential be very effective at reducing the noise, with reductions of approximately 15 dB seen at the houses on Ardmore Avenue.

In assessing whether the enclosure of the rooftop area is a viable mitigation solution, consideration should be given to how enclosing the space will affect its use. In the noise model, it has been assumed that the noise produced in this area will remain the same as the existing conditions. However, it is possible that enclosing the space may encourage the music to be turned up. In addition, higher indoor temperatures in this space may result in it seeing more use during the colder months of the year. These effects combined may result in the enclosure being less effective than has been predicted in our model.



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2.5.3 South Terrace

An alternative mitigation measure to the proposed barrier across the corridor between Shade Hotel and Petros is to enclose the terrace area. A noise map of the terrace and south entrance noise with this solution, as well as the relocated customer queue, is provided in Figure 2-20. This mitigation measure provides a noise reduction of between approximately 5 and 20 dB at the residences. For this solution to be effective, any doors in the structure would need to remain closed whenever possible, and all gaps in the existing glass walls at the terrace area will require sealing.

If the terrace is enclosed, the noise propagating out from the enclosed area becomes comparable in level to the noise produced from the customer queue. Moving the queue to the rear of the hotel may, in this case, make a noticeable difference to the noise produced in this area.

As for the rooftop deck, consideration should be given to how the use of the terrace area will change if it is enclosed.

2.5.4 Taxi Drop-Off and Pickup

Staff at the hotel currently attempt to reduce noise associated with customers arriving at the front of the hotel by sending taxis to the rear of the building. This policy can be effective in reducing much of the noise associated with taxis. However, during our measurements, many taxi drivers either did not see, or ignored the hotel's signs instructing them to drive to the rear and much of the valets' time was spent dealing with taxi drivers stopping in front of the hotel. Official City signs may be helpful in encouraging taxi drivers to drop off and collect customers in the designated area.

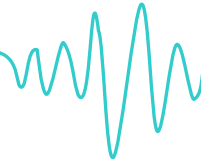
2.6 Selection of Mitigation Measures

In assessing the mitigation measures that will be most effective in reducing the overall noise levels, it should be noted that a dramatic decrease in levels may only be achieved at all residential locations if all three major sources associated with the hotel (front entrance, rooftop deck and south terrace) are mitigated.

Additionally, some combinations of mitigation measures will be more effective than others. For example, Figure 2-20 indicates that a significant reduction in terrace noise is achieved if this area is enclosed. However, the unmitigated noise maps show that a significant contribution of noise experienced at the residential properties at the south end of Ardmore

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Avenue originates from the front entrance of the hotel. Therefore, in this case, two noise sources must be mitigated for a difference in noise level to be observed.

Please contact the undersigned with any questions or comments.

Very truly yours,

Don Behrens

President

Behrens And Associates, Inc.

Attachments

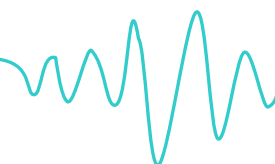
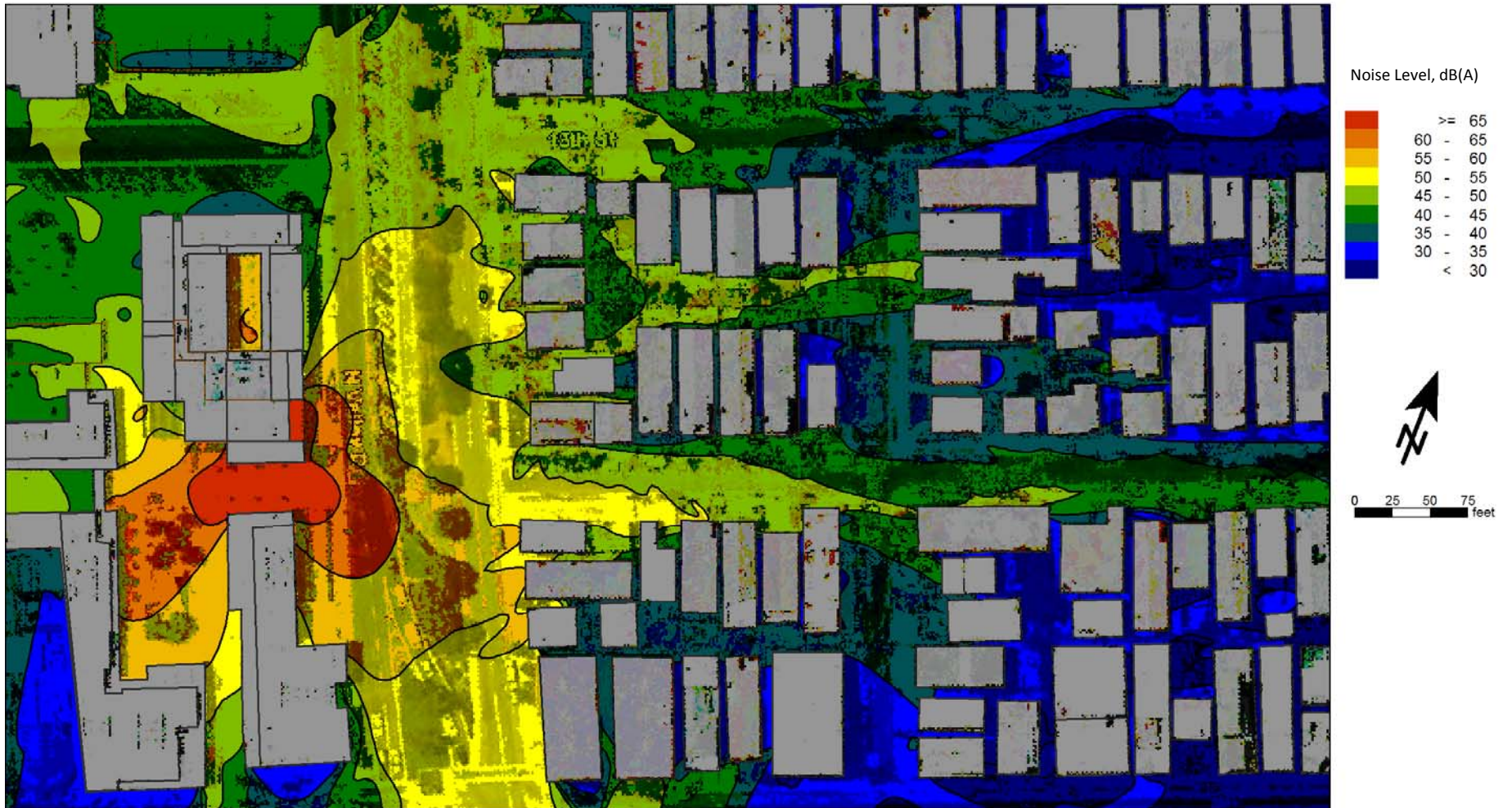


Figure 2-1. Unmitigated Average Noise Level Impact at 1st Floor Elevation - All Saturday Evening Sources



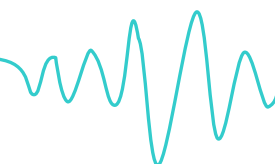
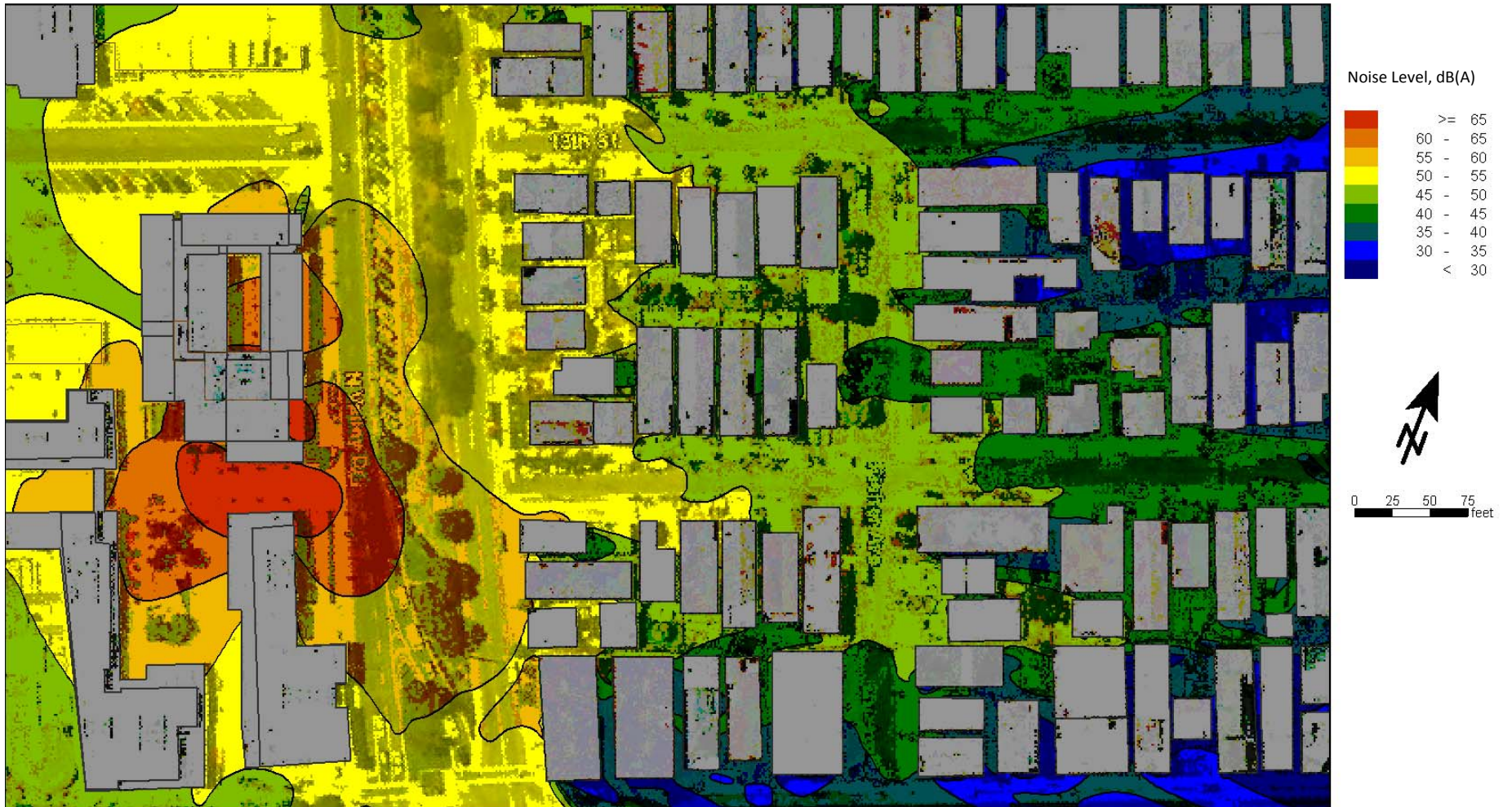


Figure 2-2. Unmitigated Average Noise Level at 3rd Floor Elevation - All Saturday Evening Sources



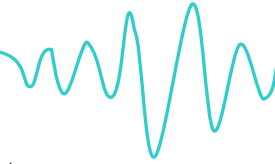


Figure 2-3. Unmitigated Average Noise Level at 1st Floor Elevation - Front Entrance Only

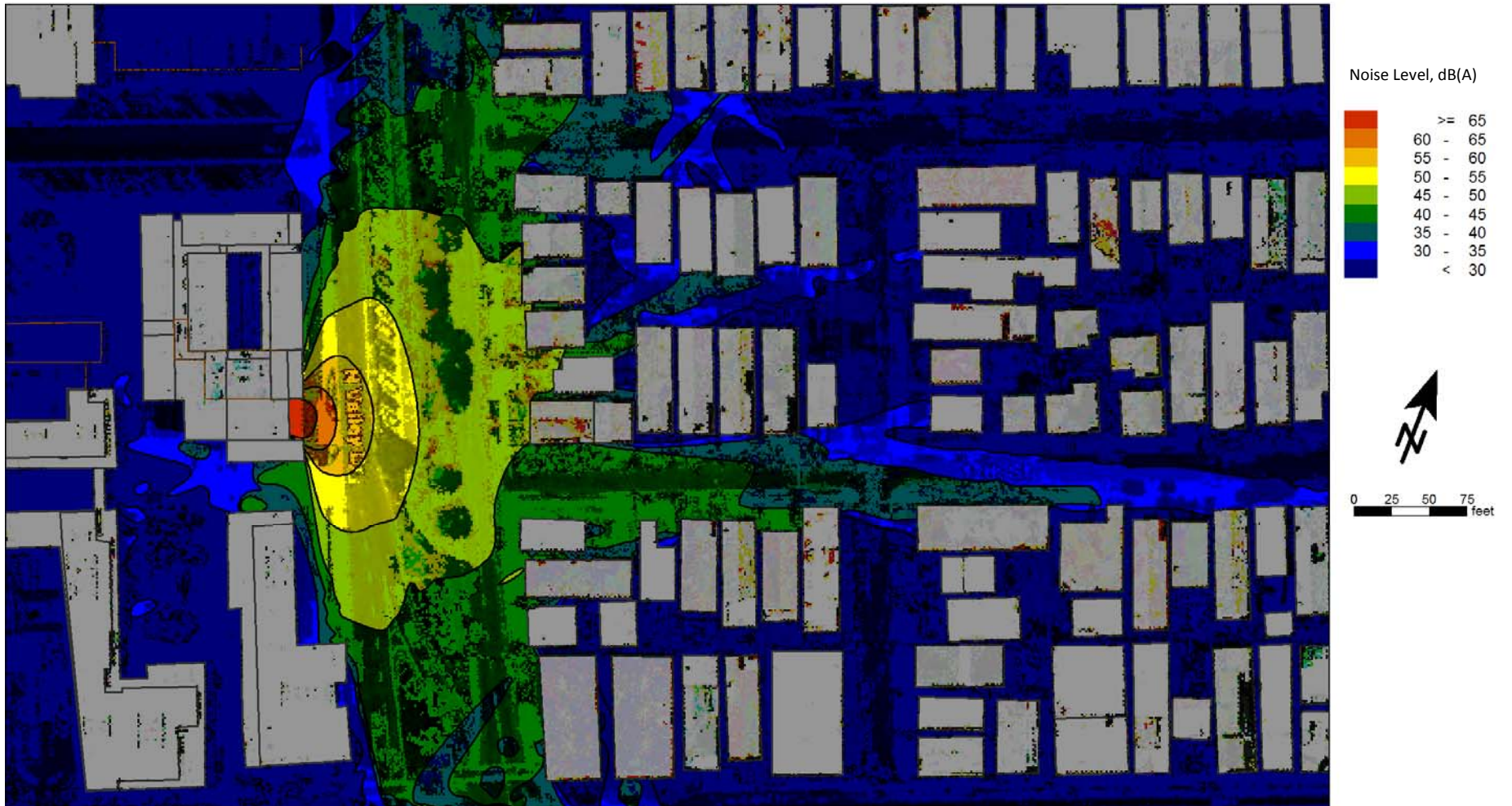
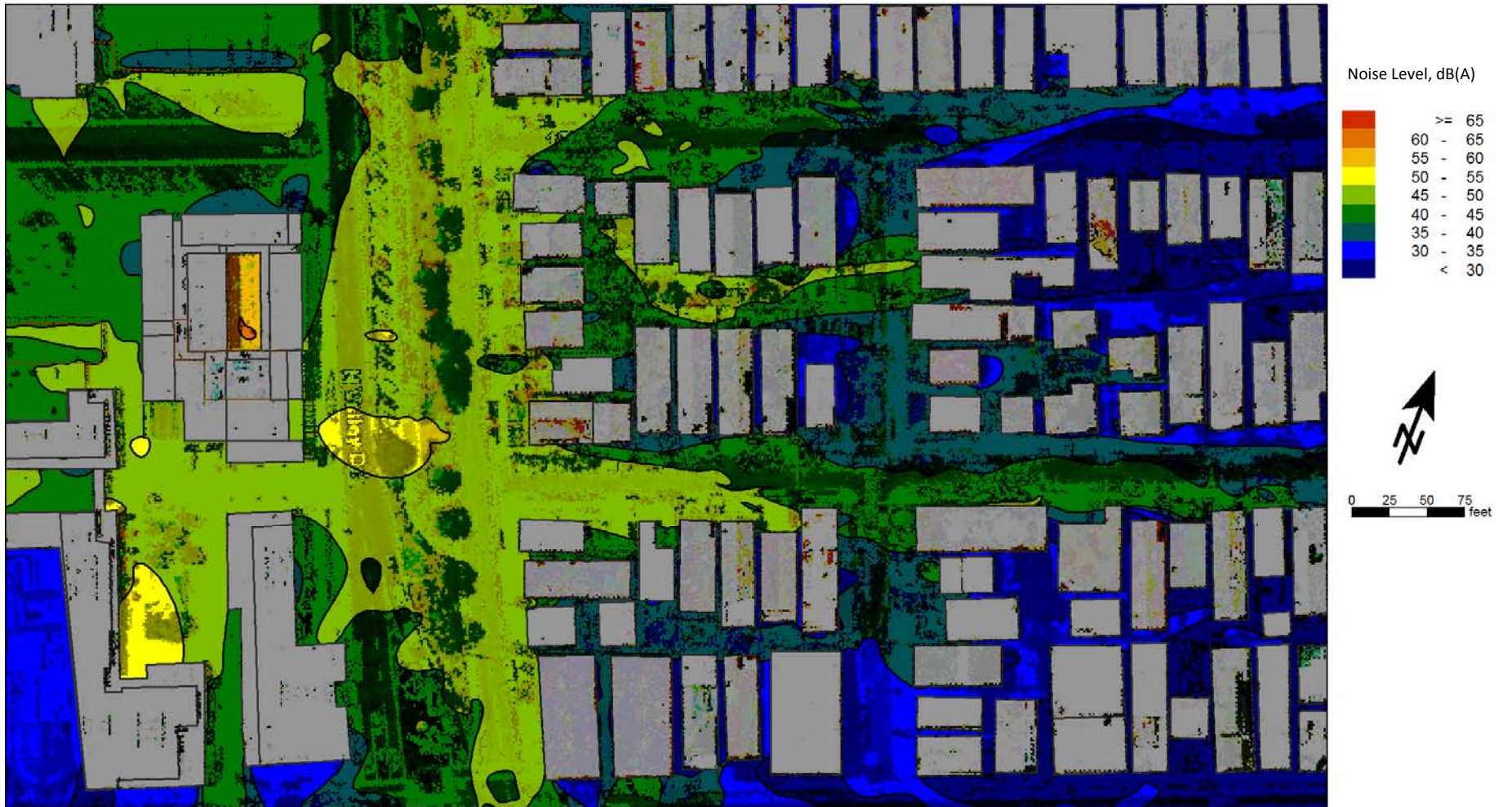




Figure 2-4. Unmitigated Average Noise Level at 1st Floor Elevation - Rooftop Deck Only



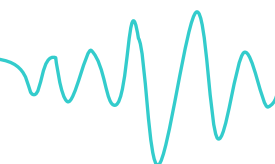
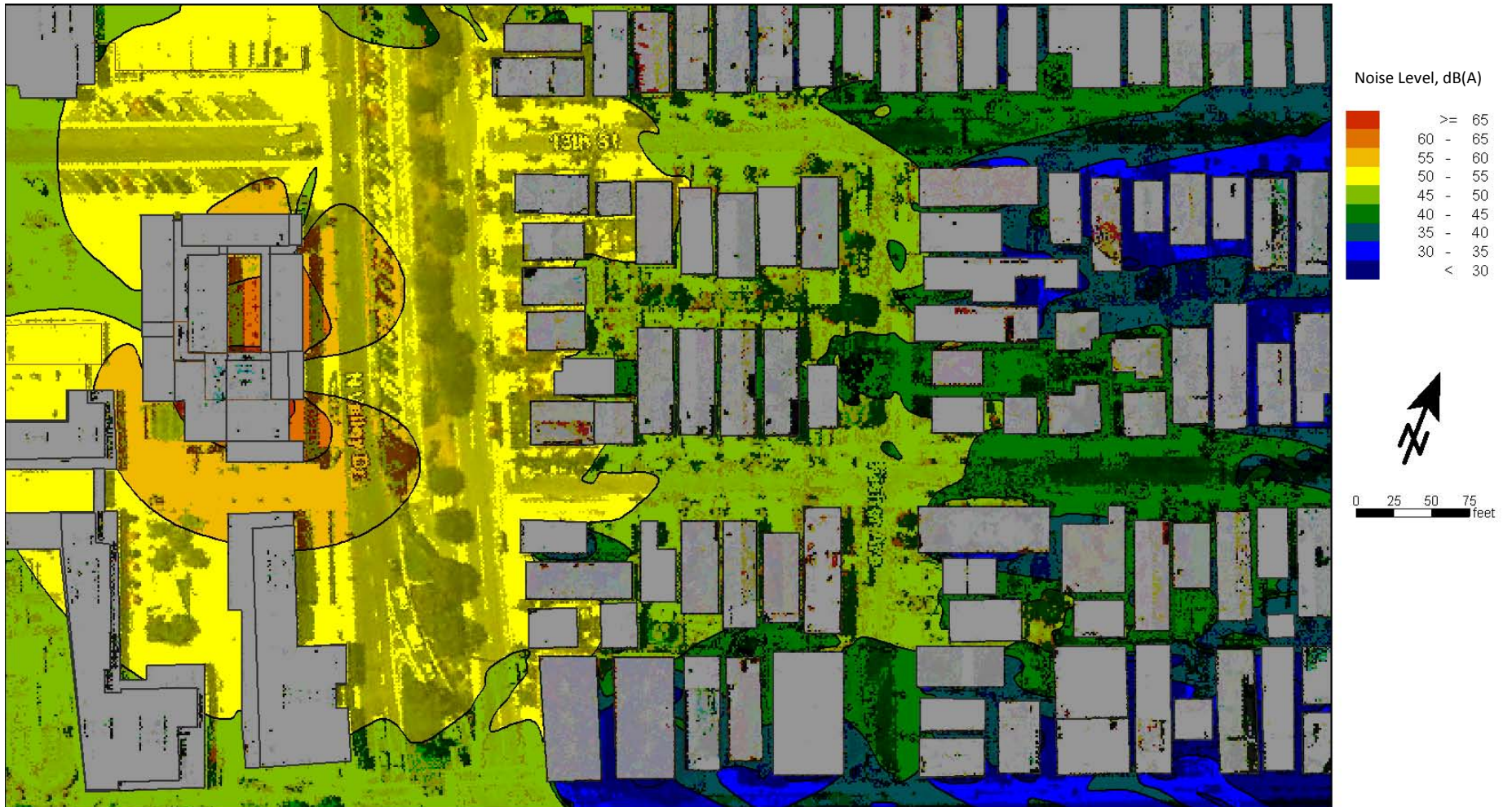


Figure 2-5. Unmitigated Average Noise Level at 3rd Floor Elevation - Rooftop Deck Only



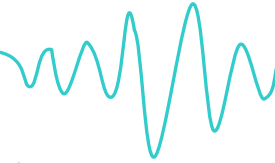
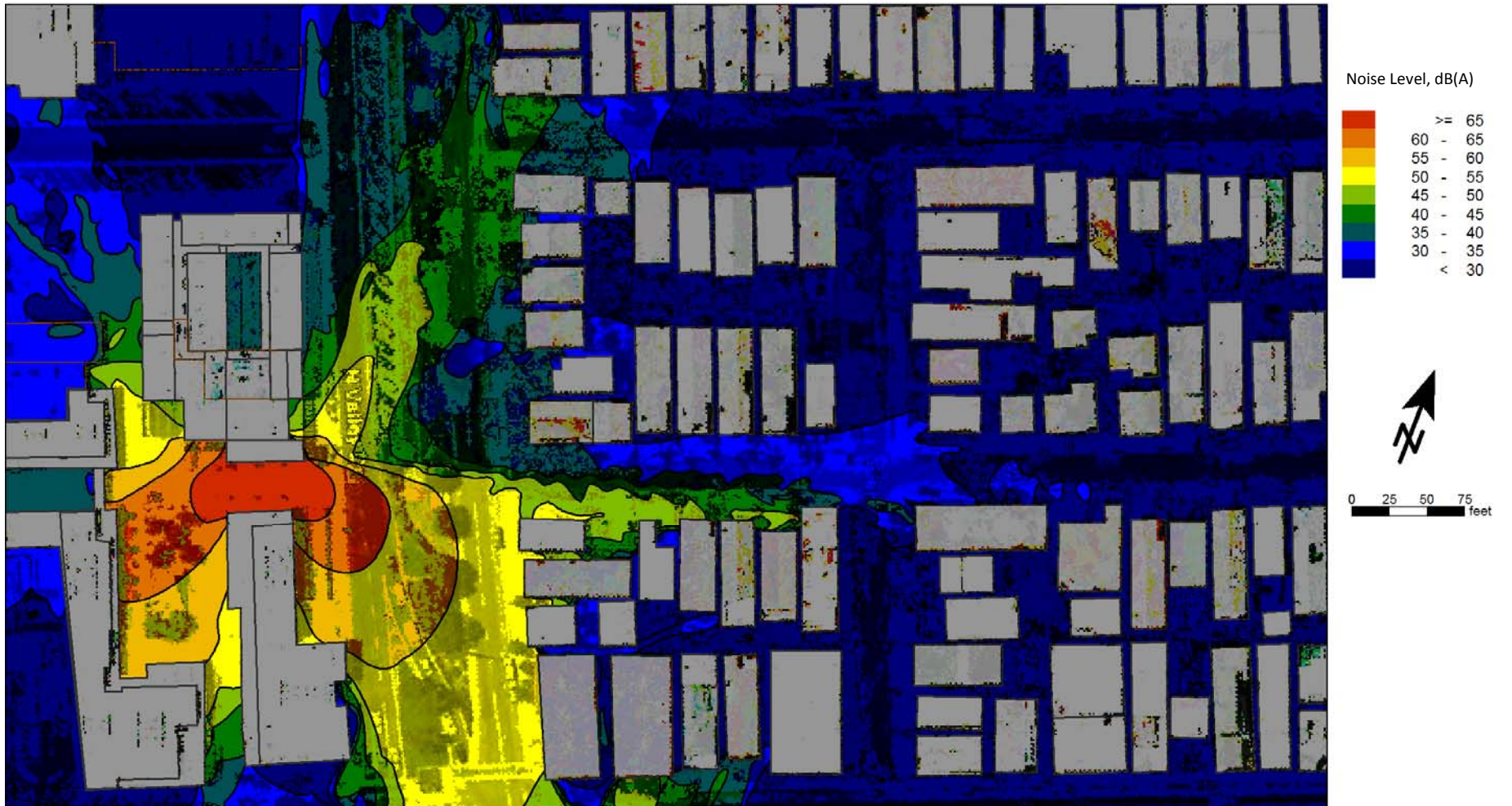


Figure 2-6. Unmitigated Average Noise Level at 1st Floor Elevation - South Terrace Only



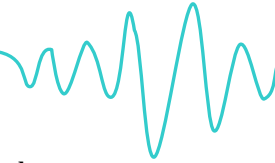
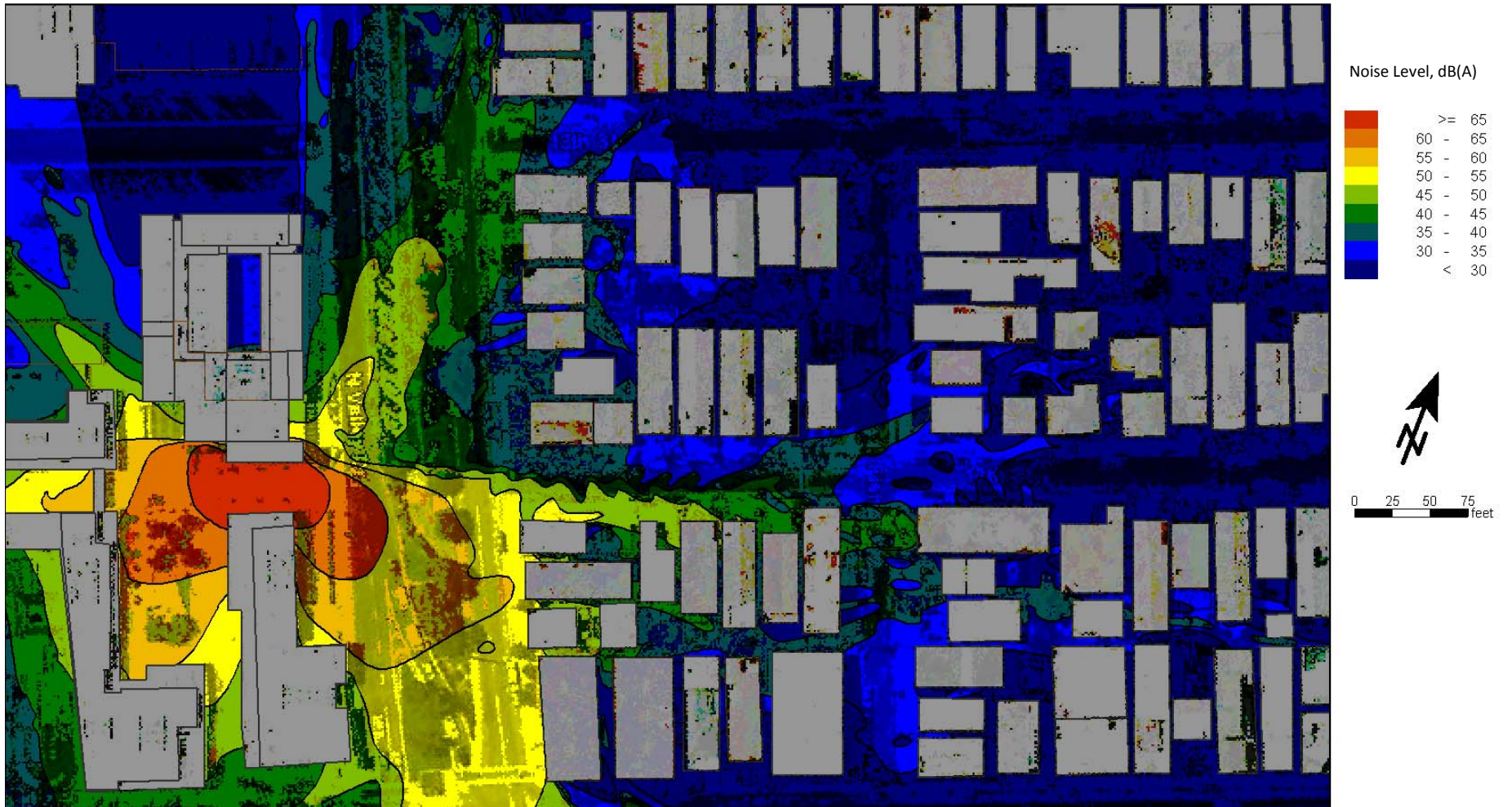


Figure 2-7. Unmitigated Average Noise Level at 3rd Floor Elevation - South Terrace Only



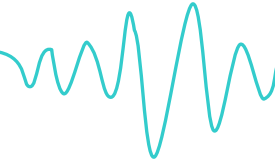
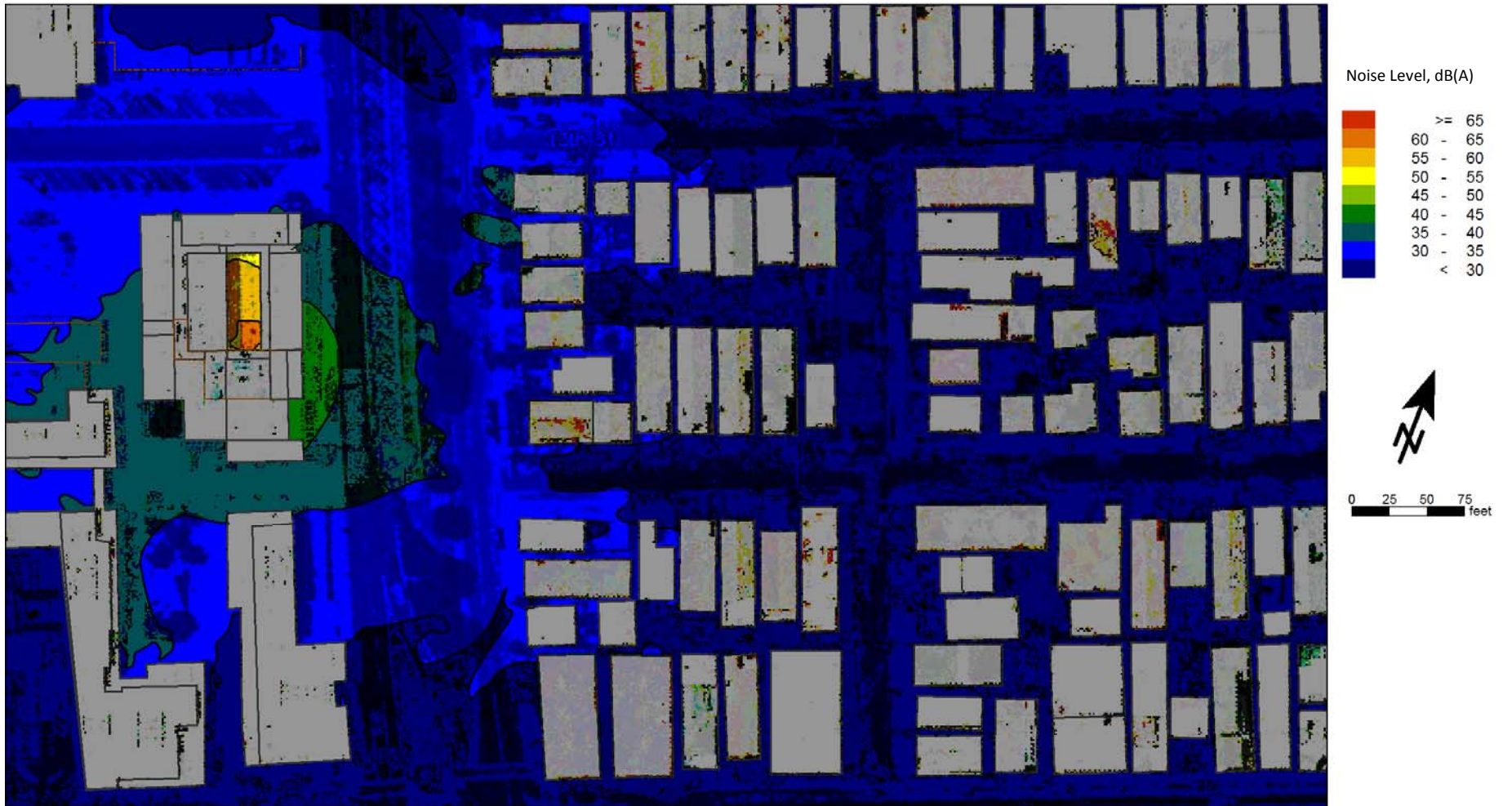


Figure 2-8. Unmitigated Average Noise Level at 1st Floor Elevation - North Zinc Lounge Windows Only



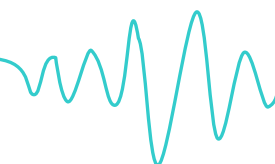
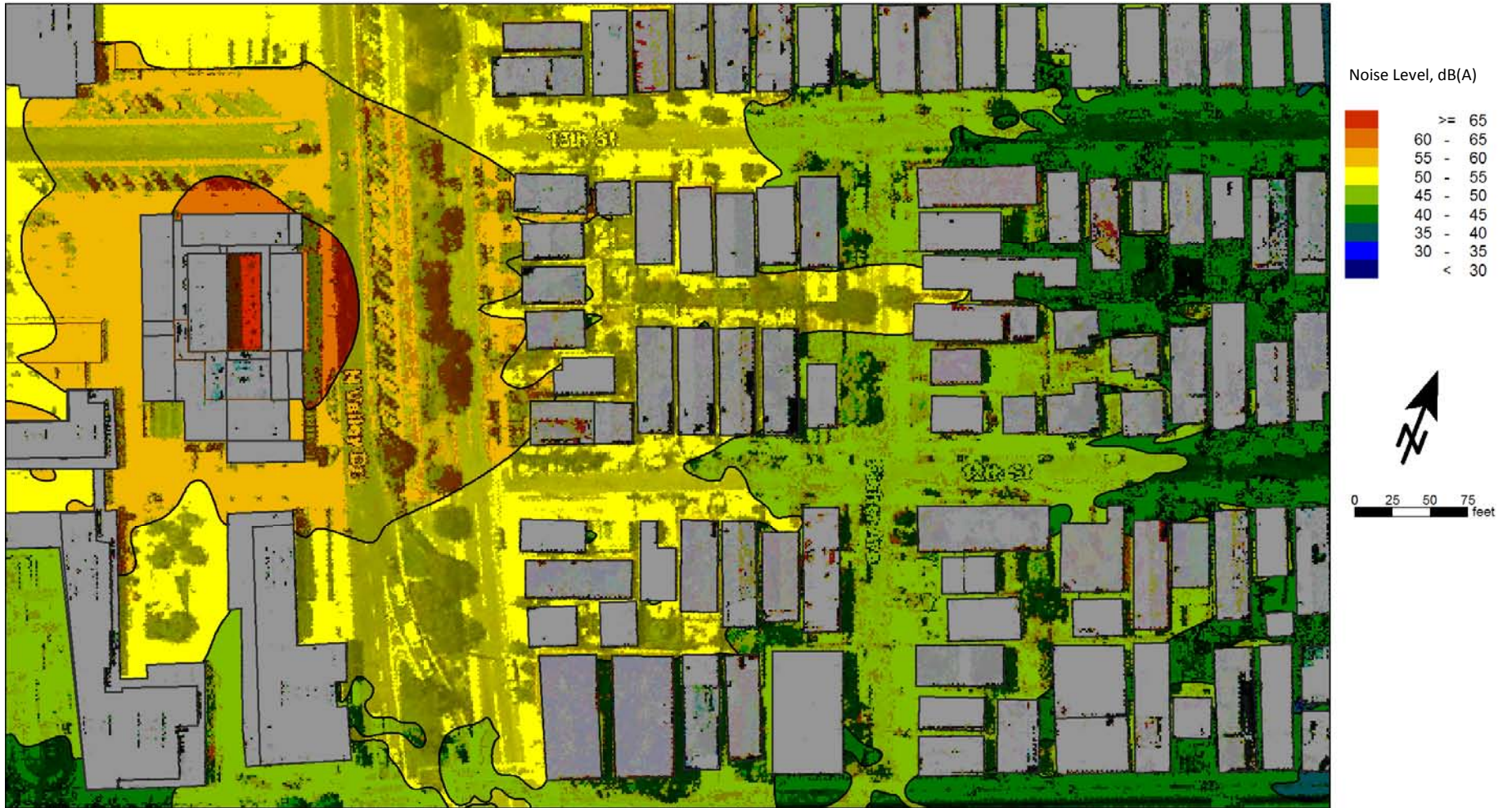


Figure 2-9. Unmitigated Maximum Noise Level at 1st Floor Elevation - Cheer from Wedding Event in Courtyard



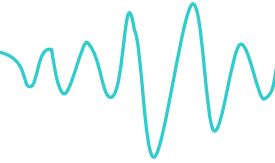
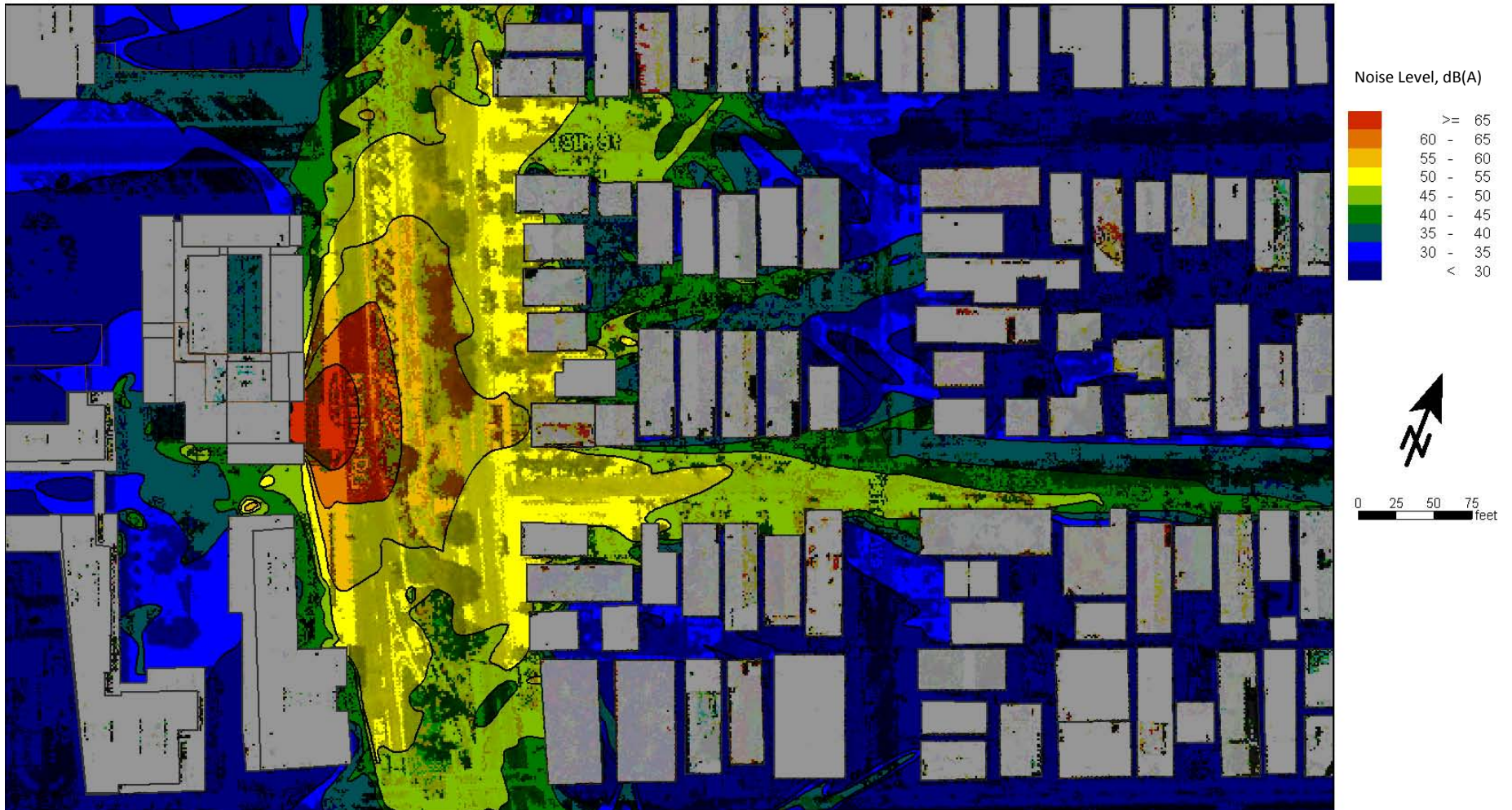


Figure 2-10. Unmitigated Maximum Noise Level at 1st Floor Elevation - Front Entrance Door Opened



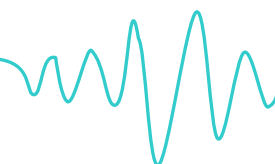
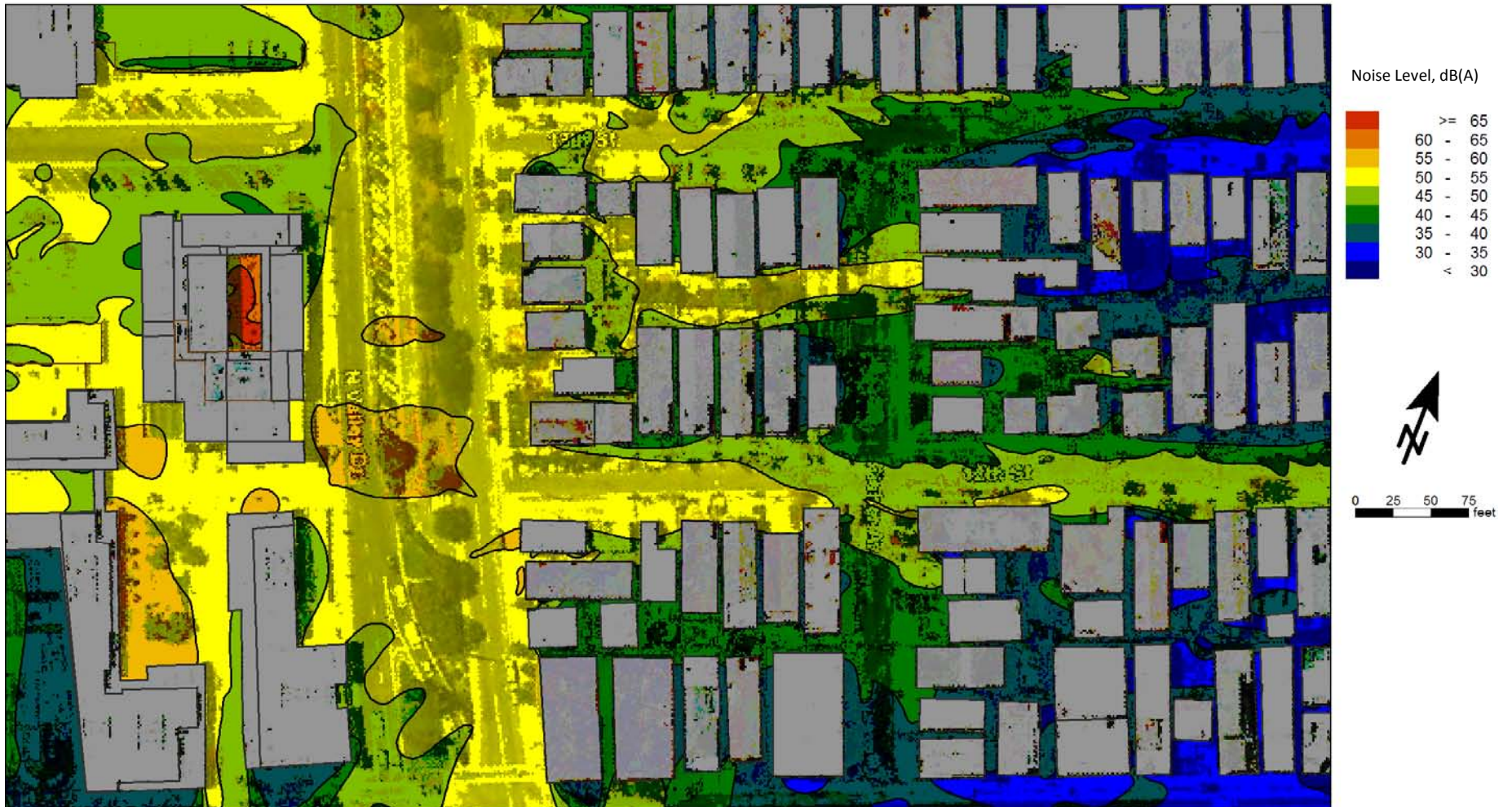


Figure 2-11. Unmitigated Maximum Noise Level at 1st Floor Elevation - Shouting/Screaming on Rooftop Deck



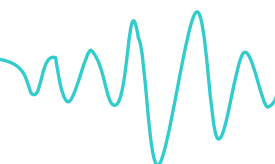
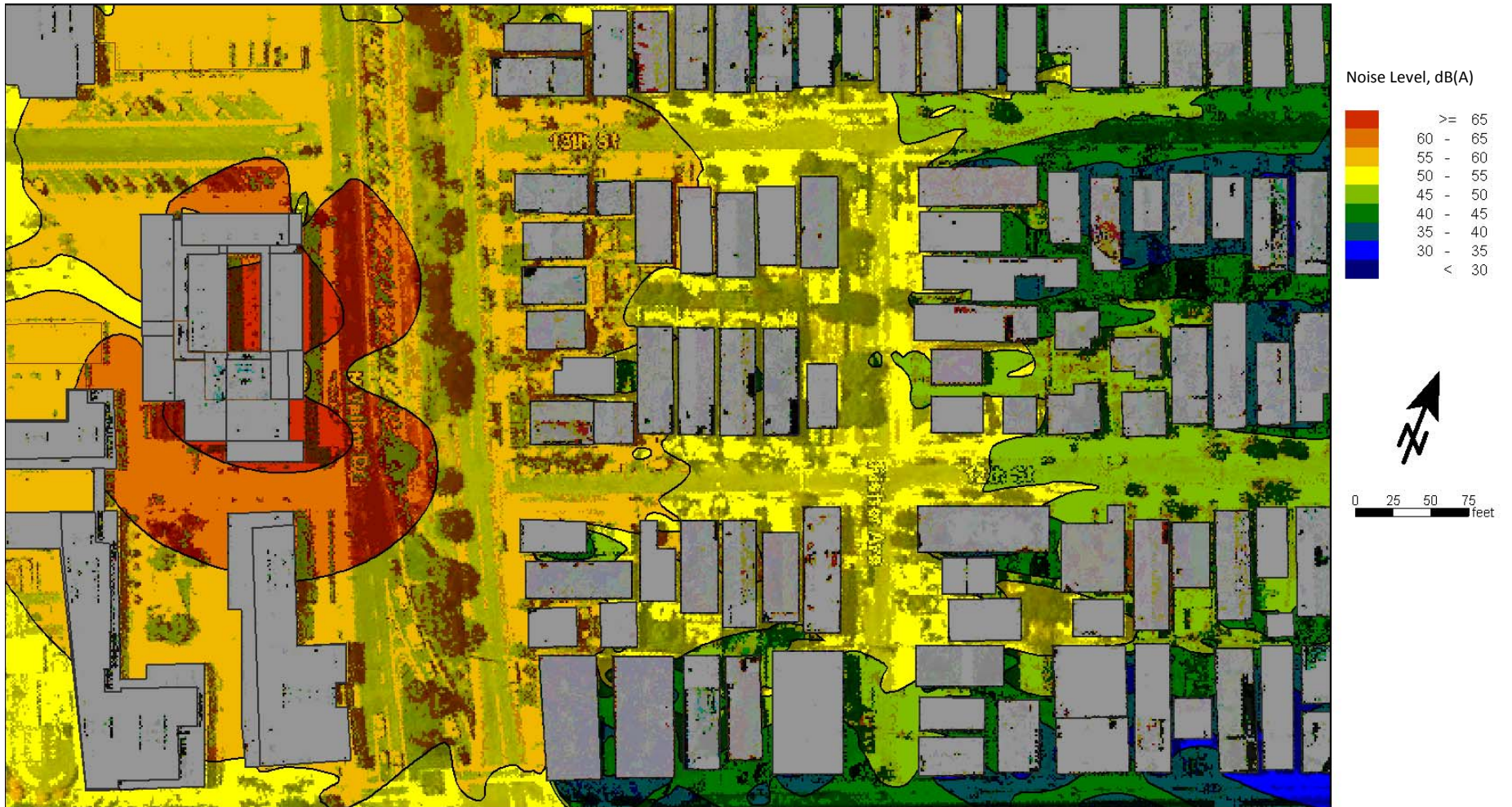


Figure 2-12. Unmitigated Maximum Noise Level at 3rd Floor Elevation - Shouting/Screaming on Rooftop Deck



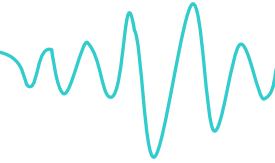
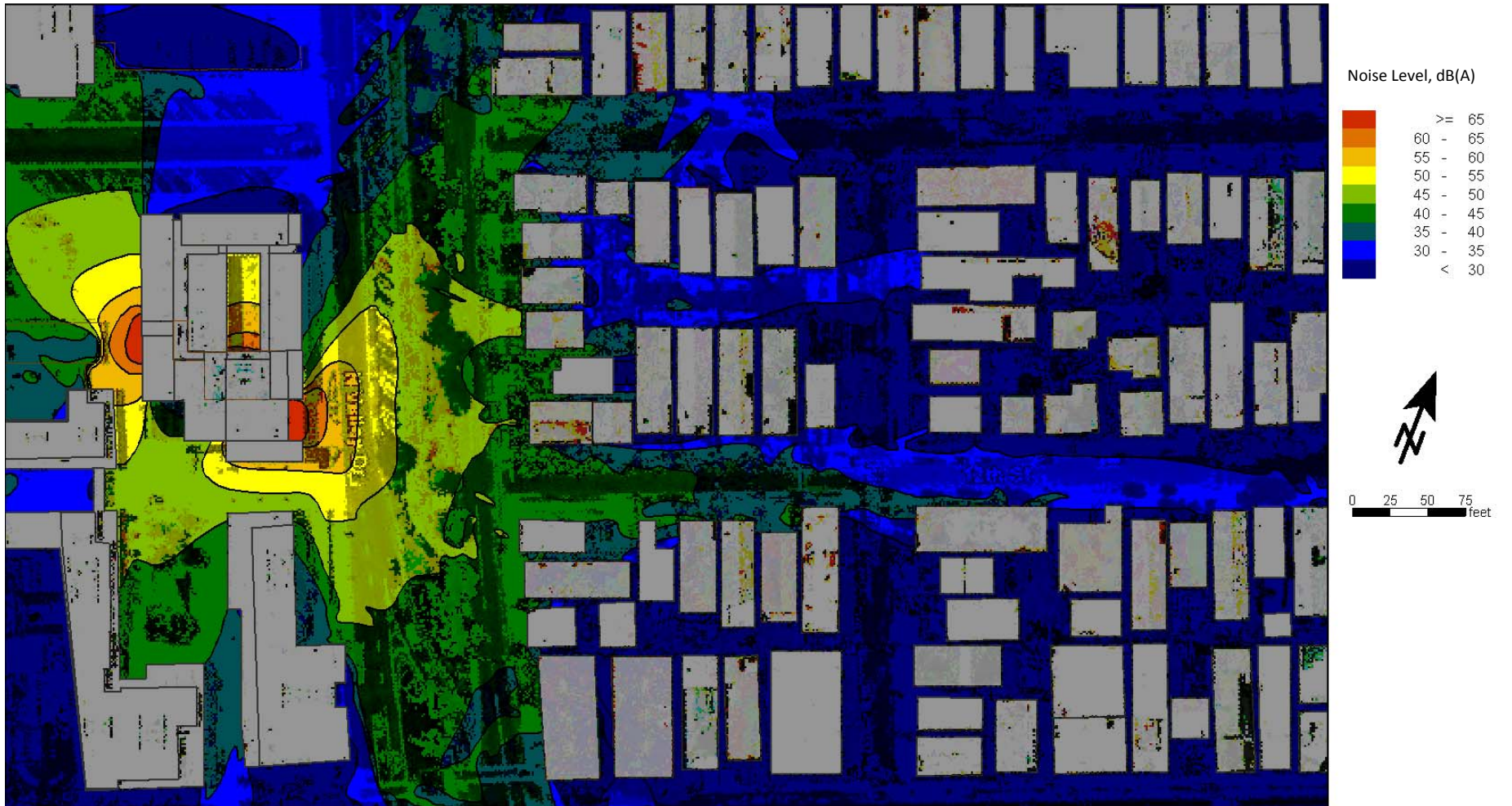


Figure 2-13. Mitigated Average Noise Level at 1st Floor Elevation - All Saturday Evening Sources



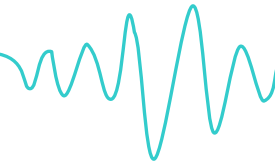
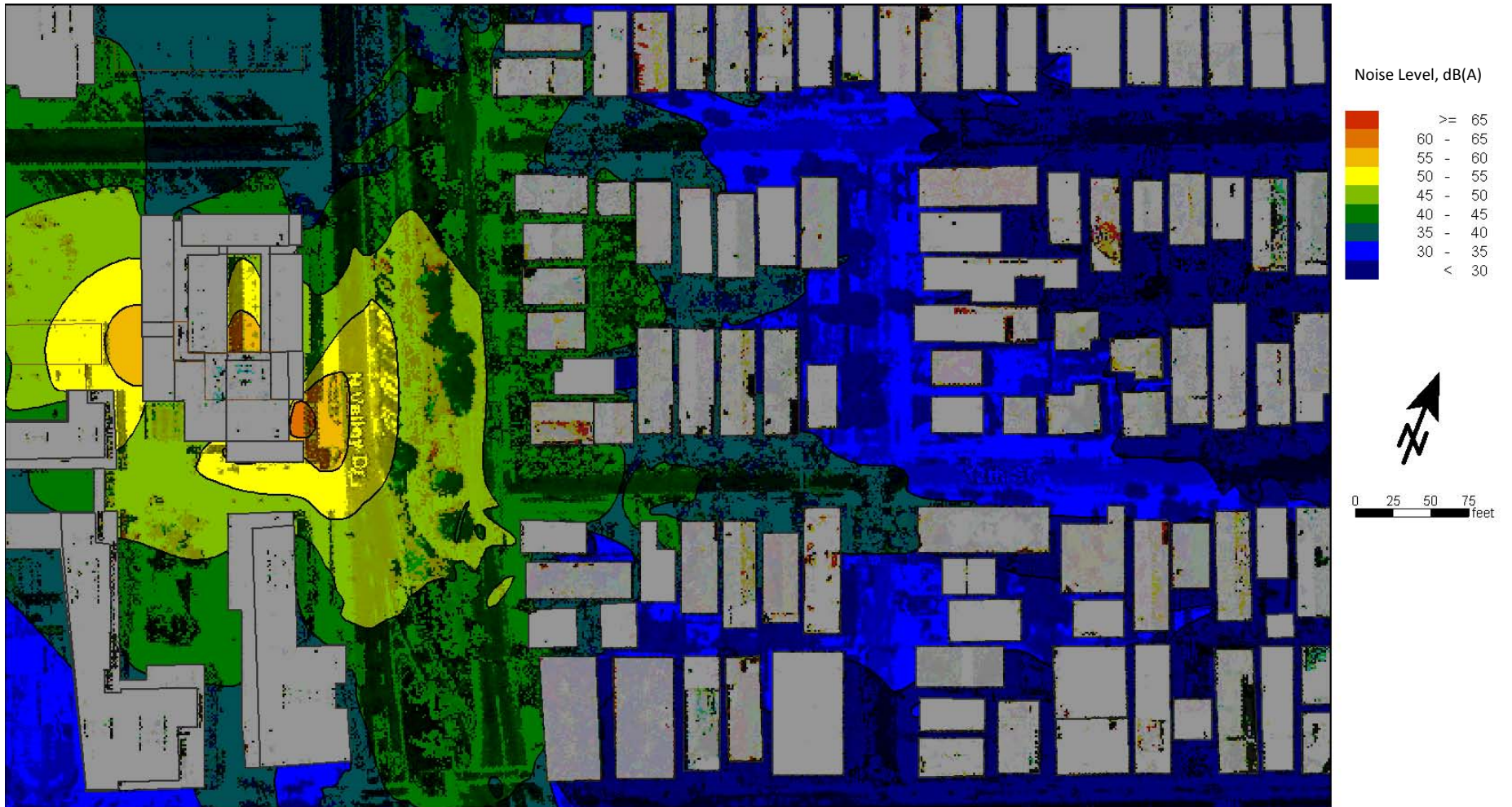


Figure 2-14. Mitigated Average Noise Level at 3rd Floor Elevation - All Saturday Evening Sources



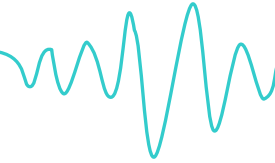
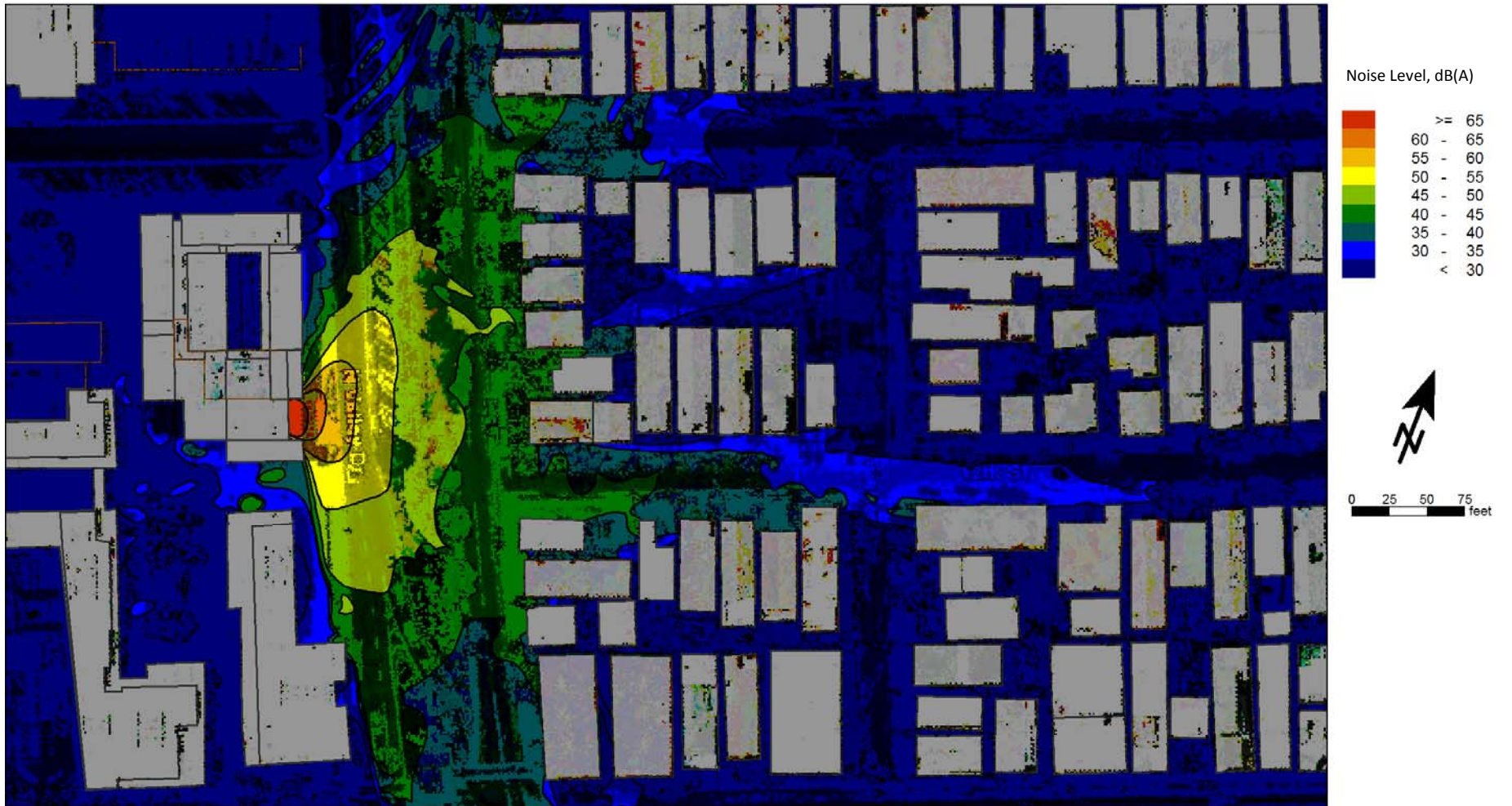


Figure 2-15. Mitigated Average Noise Level at 1st Floor Elevation - Front Entrance with Vestibule



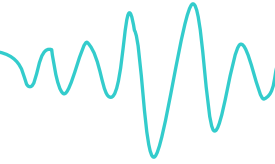
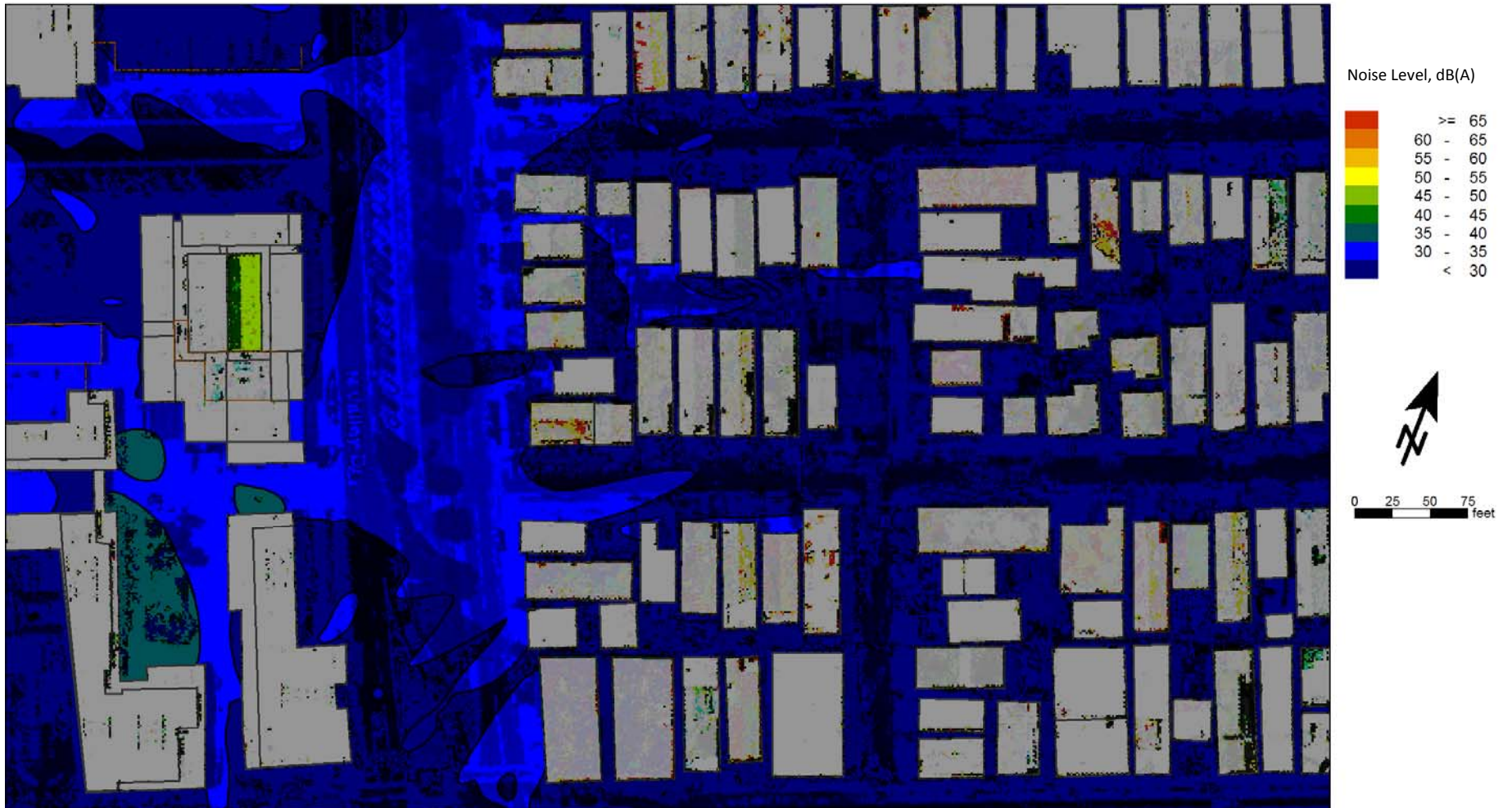


Figure 2-16. Mitigated Average Noise Level at 1st Floor Elevation - Rooftop Deck



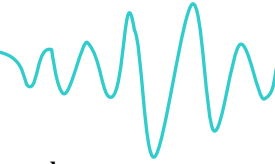
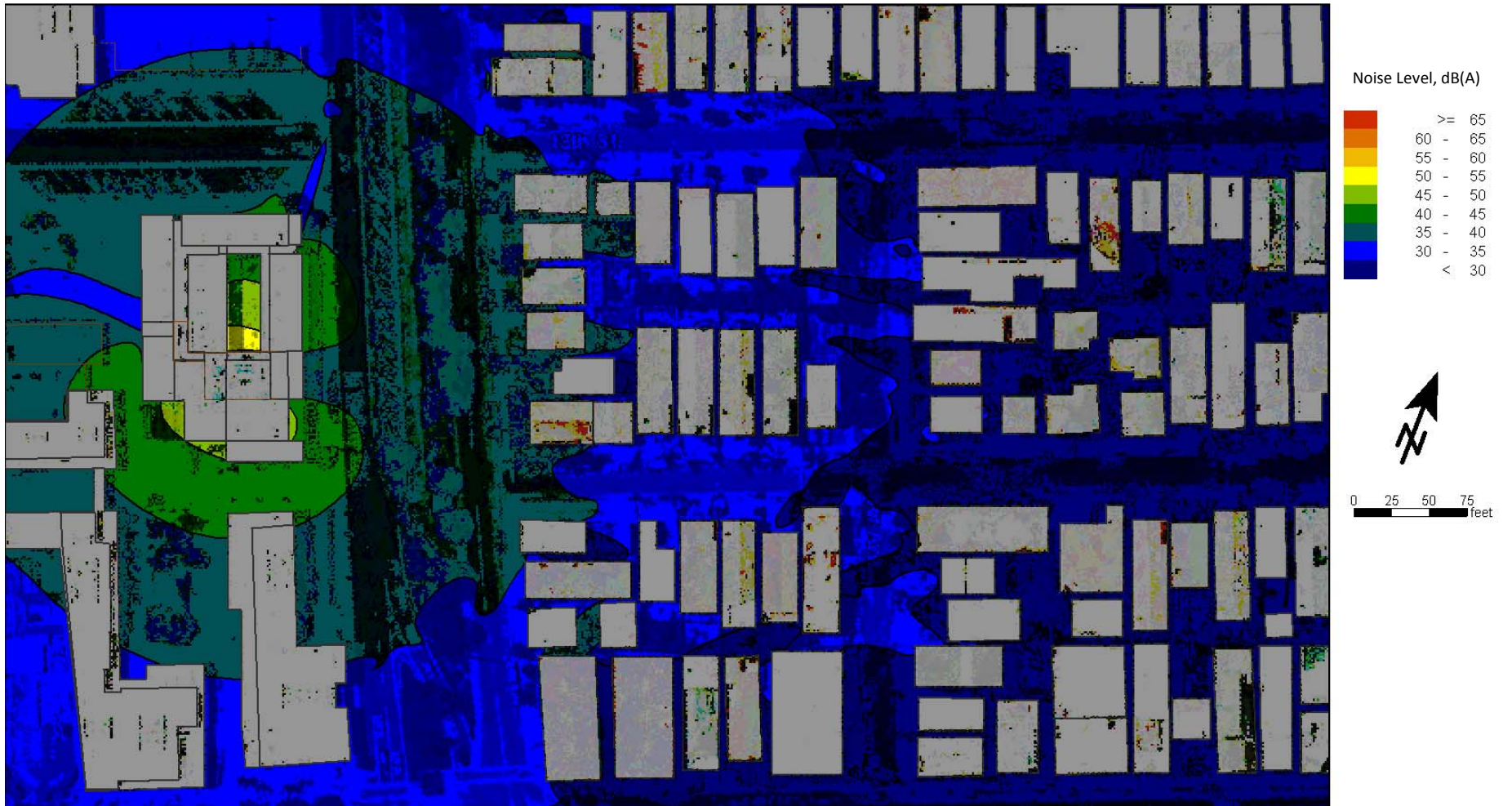


Figure 2-17. Mitigated Average Noise Level at 3rd Floor Elevation - Rooftop Deck



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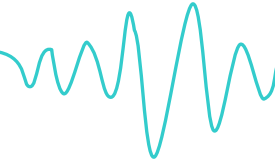
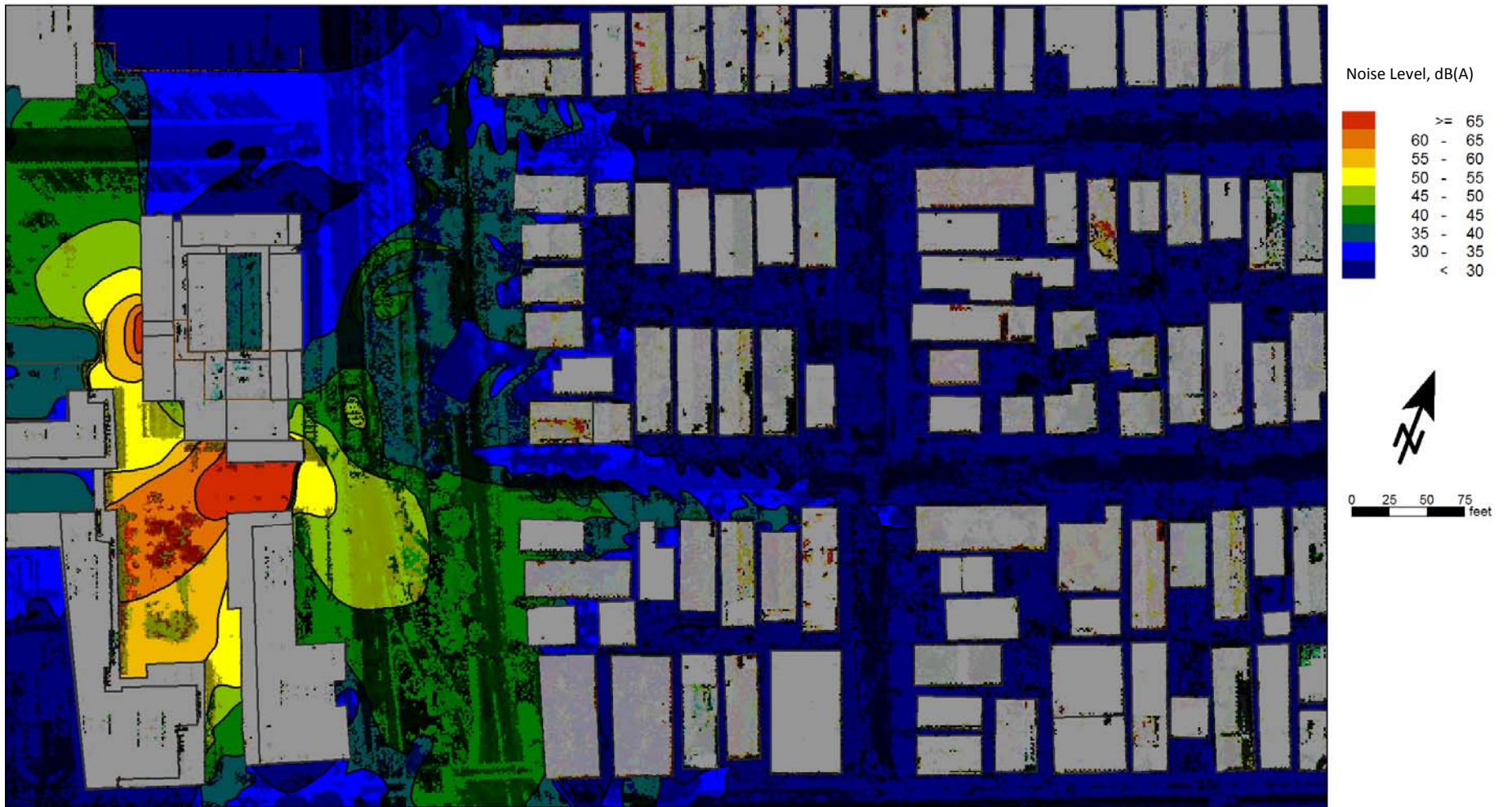


Figure 2-18. Mitigated Average Noise Level at 1st Floor Elevation - South Terrace and Relocated Customer Queue with 12' Barrier across Shade/Petros Corridor



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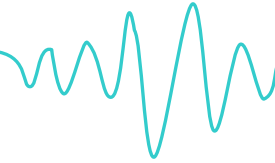
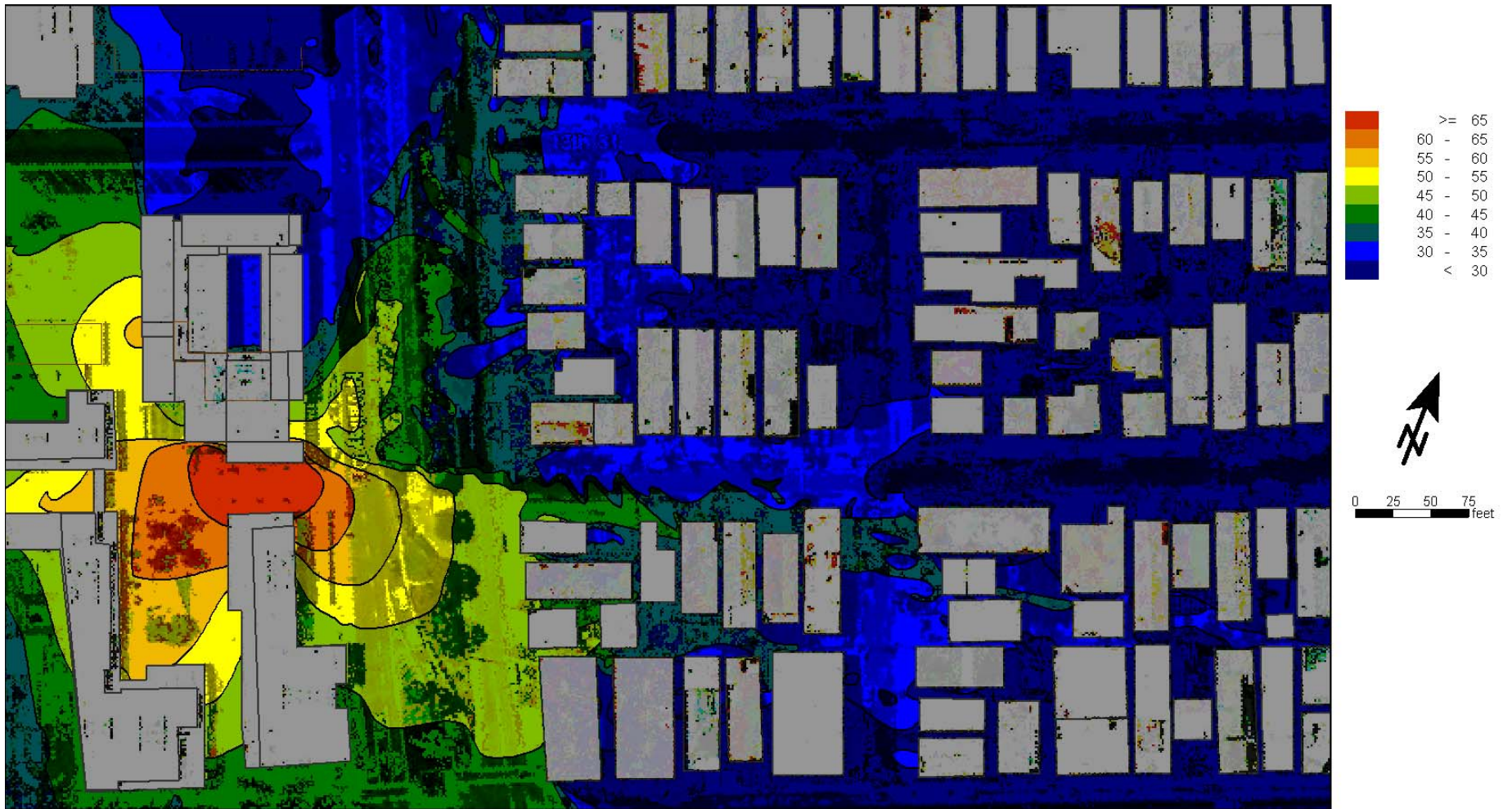


Figure 2-19. Mitigated Average Noise Level at 3rd Floor Elevation - South Terrace and Relocated Customer Queue with 12' Barrier across Shade/Petros Corridor



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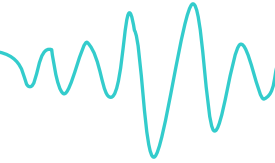
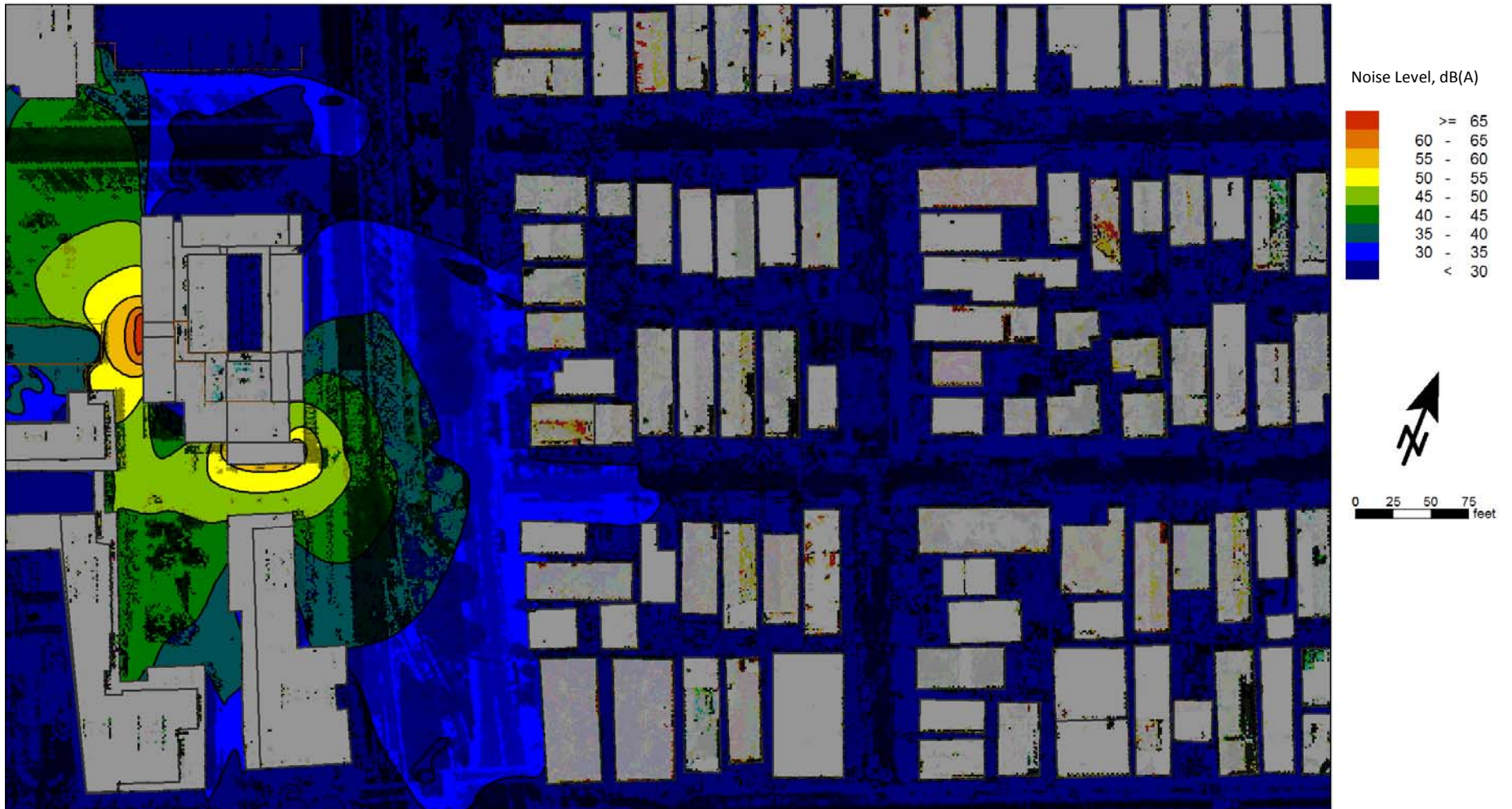


Figure 2-20. Mitigated Average Noise Level at 1st Floor Elevation - Enclosed South Terrace and Relocated Customer Queue



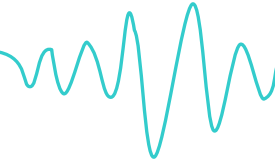
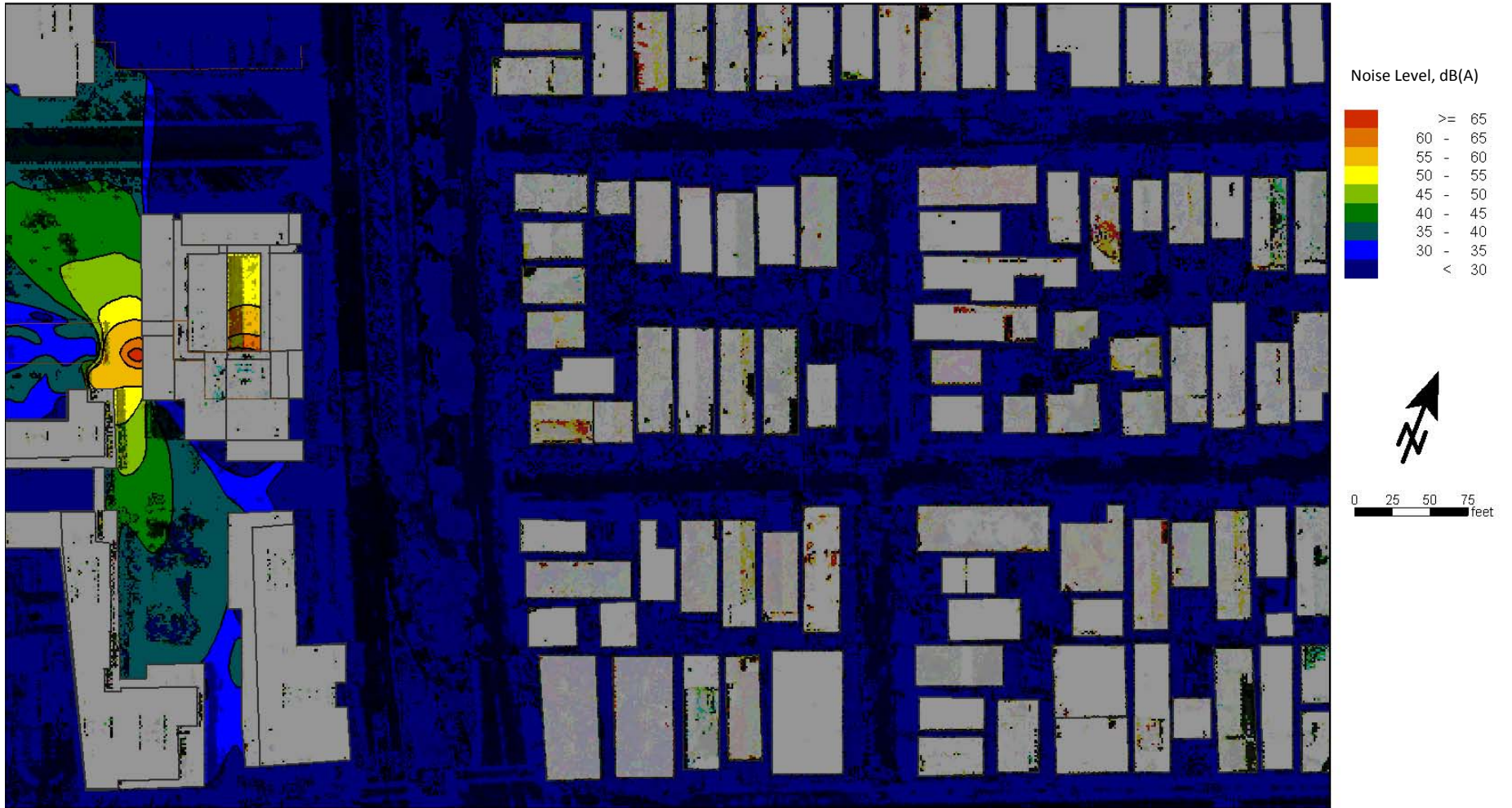


Figure 2-21. Mitigated Average Noise Level at 1st Floor Elevation - North Zinc Lounge Windows and Customers Exiting through Enclosed Courtyard Corridor



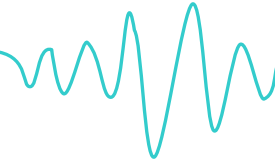
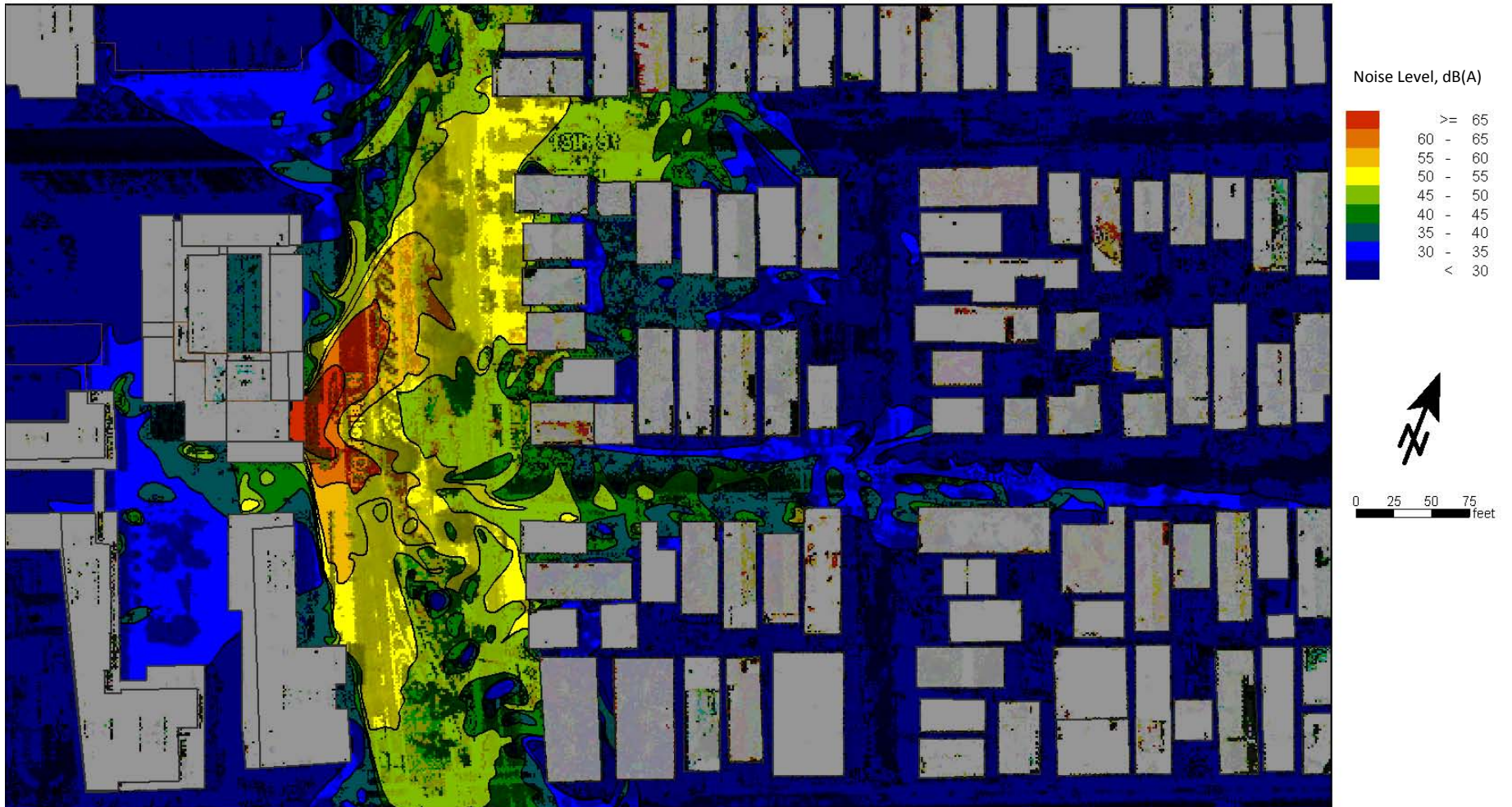


Figure 2-22. Mitigated Maximum Noise Level at 1st Floor Elevation - Front Entrance with Vestibule



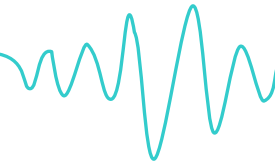
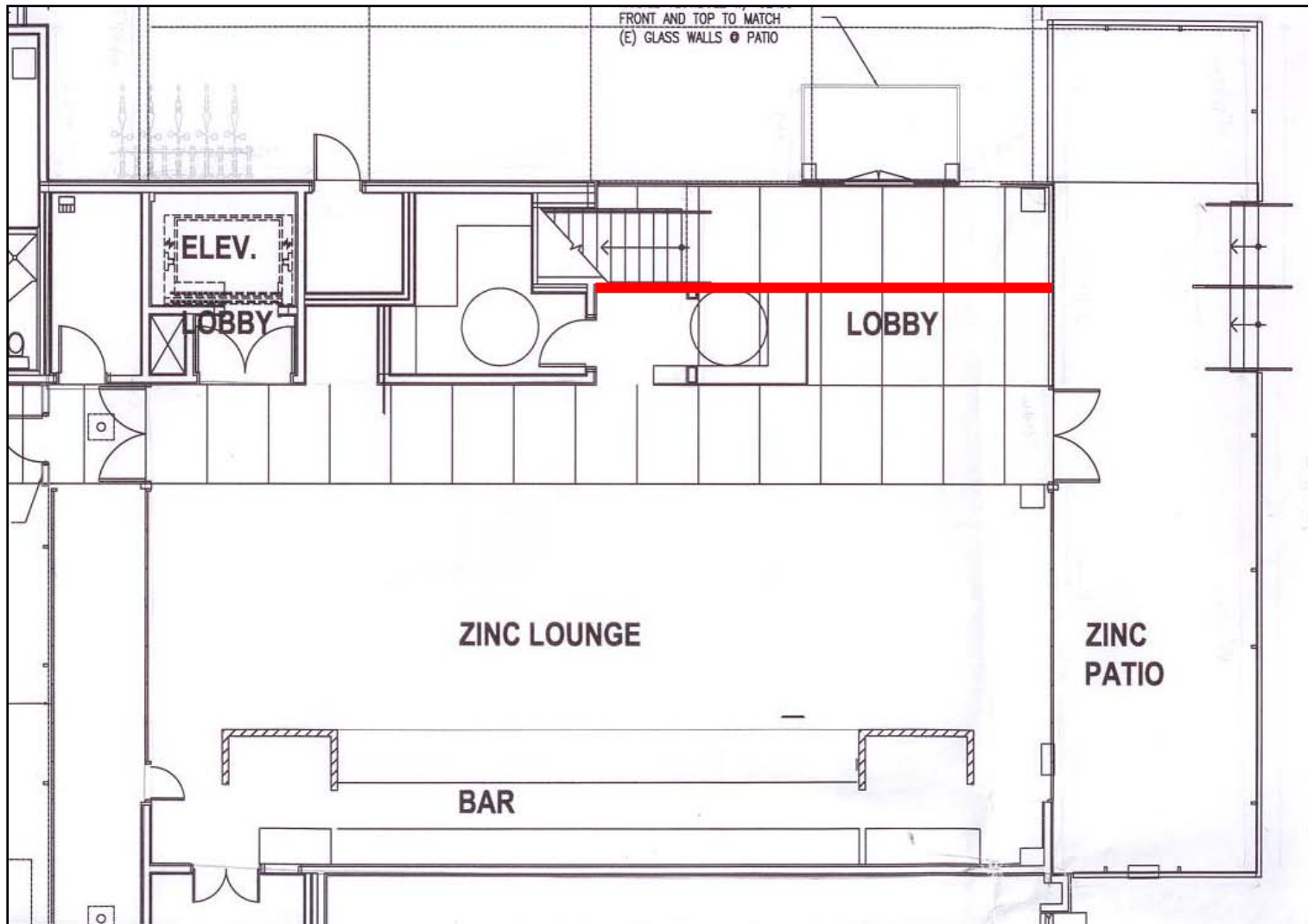


Figure 2-23. Location of Interior Lobby Wall for Alternative Front Entrance Mitigation Measure



 Location of wall

Chapter 10.84 USE PERMITS, VARIANCES AND MINOR EXCEPTION

10.84.060 Required findings.

An application for a use permit or variance as it was applied for, or in modified form as required by the Commission, shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the Commission finds that:

A. For All Use Permits.

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;
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;
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; and
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.

10.84.070 Conditions of approval.

In approving a use permit or variance, reasonable conditions may be imposed as necessary to:

- A. Achieve the general purposes of this ordinance or the specific purposes of the zoning district in which the site is located, or to make it consistent with the General Plan;
- B. Protect the public health, safety, and general welfare; or
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.
- D. Provide for periodic review of the use to determine compliance with conditions imposed, and Municipal Code requirements.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1861, Amended, 01/06/94)

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
EXCERPTS OF 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

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 Basic, 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 needs 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

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development

FROM: Laurie B. Jester, Planning Manager

DATE: July 22, 2009

SUBJECT: 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- Michael A. Zislis, President)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE CONTINUED PUBLIC HEARING, DISCUSS,** and **PROVIDE DIRECTION.**

PROPERTY OWNER

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

APPLICANT

Manhattan Inn Operation Company
1221 North Valley Drive
Manhattan Beach, CA 90266

PROJECT OVERVIEW

The Metlox project was approved by the City Council in July 2002 and includes a two-story subterranean public parking structure accommodating approximately 460 cars with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area. The commercial development includes a 38-room hotel, the Shade Hotel.

The proposed project is a modification of the previously approved Master Use Permit to allow an extension of hours, an increase in the number of people allowed for special events, full food service, and a glass wall to create a corridor separating the lobby bar from the interior hotel courtyard. A summary of the allowed uses, hours of operation, alcohol service and entertainment for various uses on the Metlox site is attached in the prior staff report as Exhibit E.

BACKGROUND

The Metlox project is the culmination of many years of community participation and input through workshops and meetings. The previous staff report provides a complete summary of some of the key milestones for the Metlox site. The following are some of the highlights related to the Shade Hotel and other Use Permit Amendments for the site:

July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council- (CC Resolution No. 5770)

April 2004- Shade Hotel construction commenced

December 2005- Shade Hotel opened

May 2005- Shade Hotel Use Permit Amendment approved to allow full alcohol service throughout the Hotel to the general public as well as guests (as required for conformance with the State ABC license), and to increase the number of people allowed at special events from 60 to 99. (PC Resolution No. 05-08)

December 2005- Petros Use Permit Amendment to allow the restaurant to remain open one more hour, with closing times of 12:00 am (midnight) Sunday –Thursday, 1:00 am Friday and Saturday and to allow limited alcohol sales for off-site consumption

May 2008- Le Pain Quotidien Bakery Use Permit Amendment to allow service of limited beer and wine with food 10:00 am to 7:30 pm, seven days a week.

On June 24, 2009 the Planning Commission conducted a public hearing, took public testimony, discussed the project, provided direction to staff and continued the public hearing to tonight's meeting.

PROJECT DESCRIPTION AND DISCUSSION

The Shade Hotel originally requested that five changes be made to the existing Master Use Permit. At the June 24th meeting the applicant stated that the request to allow dancing throughout the facility during all hours of operation for all customers, instead of limiting dancing to guests at special events only, was not really necessary and that request was withdrawn. The following summarizes the four requested changes, the discussions from the June 24th meeting, and the additional information provided by the applicant (Exhibit A). The draft minutes from June 24th, which provide a more comprehensive discussion, are included as Exhibit D:

1. Hours-

Request-

Original- The original request was to allow an extension of hours for all locations in the hotel from 6:00 am until 12:00 am (midnight) Sunday through Thursday, and until 1:00 am Friday and Saturday as well as nights before Holidays and New Years Eve.

Revised- The revised request is for Sunday through Wednesday 11:00 PM in the lobby bar and 10:00 PM on the skydeck, Thursday 11:30 PM in the lobby bar and 10:00 PM on the skydeck, and Friday, Saturday and nights before holidays (New Years and AVP) 12:00 AM midnight in the lobby bar and 11:00 PM on the skydeck. Alcohol service is requested to stop 15 minutes prior to closing.

The current approval allows hours until 11:00 pm for the lobby bar and outside terrace and 10:00 pm for the roofdeck (with alcohol service stopping 1 hour prior). The interior courtyard is allowed to have special events (weddings, parties, etc.) up until 11:00 pm Sunday-Thursday and 12:00 am (midnight) Friday and Saturday (with alcohol service stopping ½ hour prior).

Discussion- This was the proposal that the Commission and the public had the most concern with. Many neighbors living east of the project across Valley-Ardmore provided public testimony, letters and e-mails that detailed their concerns with excessive noise that currently emanates from the Shade Hotel, particularly during late night hours. A petition with 75 signatures objecting to the proposed changes was submitted at the meeting. Several residents indicated that the Shade was originally envisioned as a small Bed and Breakfast and now it had become primarily a nightclub, with a four-star hotel and restaurant, that is disturbing the neighbors late at night. The neighbors objected to increased hours as they felt that the noise impact would be worse. They indicated that the noise comes from throughout the entire facility both the inside and outside, from the patrons voices, vehicles, and music. They felt that longer hours would increase alcohol consumption and further increase noise levels.

The applicant indicated that over the years he has met with the neighbors a number of times and made many improvements to address their concerns. Glass walls to block sound have been installed on the east side stairwell, the east side of the terrace and on the east and south side of the roofdeck. The valet has been relocated to Morningside Drive instead of in front of the hotel after 10:00 PM, and a taxi stand was also established on Morningside, with signs installed to direct Shade and other Metlox customers to the new locations. The special event contracts require buses to unload and load on Morningside, not in front of the hotel, and event guests are required to exit to the west, towards Morningside. The applicant stated that with the installation of the interior glass wall separating the lobby bar from the interior courtyard that all late night guests would exit to the west, instead of out the front door to the east.

An “ear” decibel meter has been installed by the applicant to visually indicate if noise levels are exceeding the level that the meter has been preset to. Contracts for bands, dj’s and special events require that all amplification must use the Shade’s built-in sound system, not an independent system, and the noise level must be reduced if the volume exceeds 85 dba as indicated by the meter. At the June 24th meeting the applicant presented a proposal to install a glass entryway at the main lobby door on the east side of the hotel to create an enclosed vestibule entryway to contain noise. The applicant also suggested that a noise wall, similar to the wall behind the Manhattan Village Mall, could be installed in the Valley-Ardmore median along the rail to mitigate noise from the adjacent parking lot in Veterans parkway.

After the public hearing discussion the applicant indicated that the most important part of their proposal was to allow extended business hours on Friday and Saturday nights until at least midnight throughout the facility. He felt that having later hours would reduce

noise impacts as patrons would naturally leave at staggered times instead of everyone having to leave at 11:00 PM from the lobby bar.

Since the June 24th meeting the applicant has met with the neighbors to try to address their concerns. The applicant has submitted a letter (Exhibit A) that summarizes their meeting and proposal to mitigate noise impacts. The applicant indicated to staff that a noise expert has been consulted on a number of occasions, but a written analysis, report and recommendation has not been provided.

Staff met with the applicant on the site on a weekday during the daytime and walked around the neighborhood to review noise levels from the hotel. The speakers on the roof deck were set at various volumes and the front door was both open and closed. When the volume was set at 85dba amplified music from the roof deck was audible across the street in the residential area, particularly near 12th Street and Fisher Avenue where there is a more direct line of sight with the level of the roof deck. When the lobby doors were open the activity inside of the lobby was also audible, and the sound of customers loading luggage and conversing with staff outside the hotel was audible with the lobby doors closed. There were no guests on the roof deck at the time of the sound monitoring and the hotel lobby and entrance had typical daytime guest activity. Staff suggests that the Planning Commission visit the hotel and surrounding residential area during the evening hours to experience the noise levels.

Some Commissioners indicated that Metlox was intended to be family-friendly, and that the Shade was originally envisioned as a small hotel with a lobby bar and now it has become a four-star hotel with a nightclub and restaurant that is disrupting the residential neighborhood. They felt that there needed to be a balance between allowing the commercial businesses in the Downtown to operate, while respecting the concerns of the nearby residents. The Commission asked the applicant to meet with the neighbors and a noise expert and come up with specific proposals to mitigate noise impacts.

2. **Special Events-**

Request- Allow an increase to 150 people for special events The current approval allows 99 people for special events.

Discussion- The applicant indicated at the June 24th meeting that most weddings on the site are 120 people. Large special events tend to be held in the interior courtyard area and will often also use the lobby bar. The Commission had mixed views on this but the majority felt that increasing the number of guests at special events would be acceptable if the noise levels were controlled so that the neighbors were not disturbed.

3. **Food Service-**

Request- Allow full food service, with the same hours as above, open to the public (breakfast, lunch and evening “small plates”). The approval currently allows limited food service only for hotel guests, with breakfast served from 6:00 am to 10:00 am Monday-Friday and 6:00 am-11:00 am Saturday and Sunday, no lunch service and room service at any time. Evening appetizers may be served to the general public, and the ABC license

requires that food be available when alcohol is sold. Full food service for guests at special events is allowed.

Discussion- The public and the Commission did not appear to have significant concerns with this aspect of the request. Providing full food service in a restaurant type of setting open to the general public was not a major concern for the neighbors or Commission as this does not create any noise disturbance for the neighbors or any other issues. The Commission did comment that the primary use of the site was intended to be a hotel, with a lobby bar as a secondary use and limited food service. They did not want the food service to become the primary use on the site. The applicants letter indicates that lunch would be served to the public and that there would not be an expansion of the dinner nighttime operations, which would continue to be the evening “small plates”.

4. **Wall-**

Request- Allow installation of an openable accordion glass wall to separate the lobby bar from the interior hotel courtyard, instead of the open walkway that currently separates the lobby and the hotel courtyard. This would create an enclosed hallway to separate the lobby from the hotel courtyard and rooms.

Discussion- The applicant clarified at the June 24th meeting that the wall would be used to create a corridor so that later at night patrons in the lobby bar and at special events will exit to the west instead of out the front door to the east or the terrace to the south. Exiting out to the west would help to minimize noise impacts to the residents that live east of Valley-Ardmore that have indicated that noise from the Shade can be very disruptive, particularly at night. The Commission and staff had concerns that the area would be used to just expand the lobby bar area as the lobby bar already has openable glass doors that open up to the courtyard and could open up to the new corridor creating a larger lobby bar space. The applicant assured the Commission that the area would not be used for that purpose, but strictly as a corridor. The new enclosed corridor would also allow the lobby bar patrons to access the restrooms without disturbing hotel guests.

The Commission could consider requiring that the existing openable glass doors for the lobby bar be replaced with a fixed wall to ensure that the corridor is used as a corridor and not just an extension of the lobby bar. The applicant has indicated that they would like to retain the openable doors to allow flexibility in the use of the spaces. For large events sometimes the interior courtyard and lobby bar are opened up to flow into each other so that the area becomes one large space.

Applicant Description

The applicant states that the reason for the Amendment is to clarify and fine-tune the Hotels status as a “four-star” destination luxury boutique hotel with an international reputation and as the anchor for the Metlox Plaza. They believe that the Amendments will put them on a level playing field with other luxury hotels as well as other hospitality businesses. Additionally, they indicate that the modifications will help support the Hotels revenues with the economic slowdown. The applicant has suggested that the project be reviewed in one year to evaluate the any impacts and the effectiveness of the conditions. A complete project description is included in

the June 24th Planning Commission packet.

Master Use Permit and Coastal Permit

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

The Coastal Development Permit for the original Master Use Permit was issued by the California Coastal Commission and because there are no relevant coastal issues related to the subject application an amendment to the Coastal Permit is not required.

CONCLUSION

The project before the Planning Commission is an Amendment to the Master Use Permit for the Shade Hotel. At the June 24th meeting the Commission was generally in agreement with the proposals for special events, food service, and the glass wall. The area where the Commission felt that more information was needed was the proposal to increase the hours of operation. The applicant has further revised the request to reduce the hours of operation and provided information on proposed noise mitigation. A report and recommendations from a noise consultant has not been provided. Staff recommends that the Planning Commission review the information presented in the report, open the continued public hearing, discuss the project , and provide direction.

ATTACHMENTS

- Exhibit A: Supplement information from applicant dated July 16, 2009
- Exhibit B: Public comments
- Exhibit C: Map of properties with comments/noise complaints
- Exhibit D: Draft minute excerpts- June 24, 2009
- Exhibit E: Planning Commission staff report, attachments, and materials distributed at meeting- June 24, 2009
- Exhibit F: Plans- (Not available electronically- previously distributed)

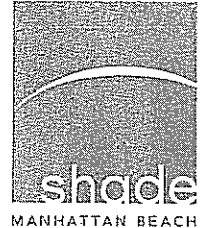
- c: Mike Zislis- Shade Hotel
- Jon Tolkin- Tolkin Group
- Glenn Loucks- Tolkin Group

G:\PLANNING DIVISION\Temporary (file sharing)\Bobby\Metlox\Shade- hours, restaurant, special events, operations MUP A-2009\PC report Shade hours MUP Amend 7-22-09.doc

July 16, 2009

HAND DELIVERY AND BY EMAIL

Ms. Laurie Jester
Senior Planner
City of Manhattan Beach
Planning Commission
1400 Highland Ave
Manhattan Beach, California 90266



Re: *Shade Hotel:*
Supplemental Comments for Planning Commission Meeting of July 22

Dear Ms. Jester:

This letter supplements Shade Hotel's application for modifications and clarifications of relevant terms of the Metlox Master Use Permit. This updates information we submitted prior to the June 24 meeting.

Several of Shade's neighbors attended the June 24 meeting to express their opposition to the extension of our hours. This is consistent with prior history related to Metlox. Shade is locally owned and operated. While we have a great deal of support in the community, we also do our best to address any concerns that may be expressed. With that philosophy in mind, since the June 24 meeting, we have:

1. Met with the neighbors on Sunday, June 28, to learn more about their individual circumstances, and discuss various possible approaches.
2. Added an extension to the glass wall noise barrier we had previously constructed on the Hotel's Sky Deck.
3. Installed a limiter on the Hotel's sound system to be able more effectively to control noise. Also, adopted a policy that any DJ or microphone use at Shade must run through Shade's sound system.
4. Proposed significant new construction to further limit escape of noise to the East, in the form of an enclosed entry (not directly opening to the East) at the Hotel's entrance and a new wall (described in our original Application) to enable lounge guests to exit to the West.

Ms. Laurie Jester
Senior Planner
July 15, 2009
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While we will continue to look for ways to address such neighbors' complaints, we also need to consider our larger role in this community. Most of our lounge and hotel customers think it is odd that we have to close at 11:00 p.m. on weekend nights, particularly when the outdoor hours for the Metlox plaza itself have always extended to midnight on Fridays and Saturdays. The two other food and beverage establishments in the Metlox plaza, Sashi and Petros, close at midnight and 1:00 a.m. respectively on Fridays and Saturdays. In that regard, you might want to note the Beach Reporter letter we copied and are now enclosing.

The following terms of a comprehensive revised proposal, along with many steps we have already taken, reflect our commitment to a reasonable balance of interests:

A. Some of the complaints raised to the Planning Commission related to work or school-nights. With that in mind, hours could reasonably be restricted for Sunday through Wednesday as follows: Zinc Lounge -- 11:00 p.m. -- and the Sky Deck (including as related to Event) -- 10:00 p.m.

B. As to Friday and Saturday nights (and nights before Holidays), we believe a reasonable balance calls for somewhat longer hours, with Zinc Lounge closing at 12:00 and the Sky Deck at 11:00, with extended hours on a few specific occasions such as New Years Eve and AVP weekend. This is consistent with hours already approved for Events and will partially reduce the disadvantages we currently face compared to other boutique hotels, local competitors (such as the Belamar) and the Metlox Plaza itself. See the enclosed list of boutique hotels.

C. We believe Thursdays represent a special case, since many residents enjoy getting out on that night. An extension to 11:30 p.m. on Thursdays (for Zinc Lounge) is proper.

D. For all locations, we believe that food and beverage service should stop 15 minutes before those specified closing times.

E. We have withdrawn our request to permit dancing (except for Events, such as weddings, where it is now permitted).

F. Shade Hotel should be permitted to serve and promote lunch. We are not aware of anyone who is opposed to this nor any reason why there would be opposition.

G. A review of these hours would be scheduled to be held in one year.

Some individuals at the June 24 meeting commented that Shade is "a victim of its own success." The City never intended for Shade to be unsuccessful or mediocre. In the heart of the Downtown Commercial District, Shade is exactly the "luxury boutique" hotel

Ms. Laurie Jester
Senior Planner
July 15, 2009
Page 3

we always promised to be. Shade has earned a four star status with an international reputation. It provides a pleasant venue for events and special celebrations sponsored by local charities and residents. The success of Zinc Lounge results because it is a comfortable and refined place to have a drink and snack with good friends or business associates.

It has been more than a decade since the Metlox project was originated. Life in Manhattan Beach has evolved. Our beaches and parks are more crowded. Many taxis can be seen in our streets at night. The Metlox center has become a neighborhood gathering place, at day and night, as the City envisioned. The changes and clarifications currently sought by Shade are necessary for the Hotel to continue to offer a superior level of service and hospitality to the residents of our community and so that the full potential of the Metlox Plaza can be realized.

Shade Hotel has established itself as a valuable and conscientious member of the Manhattan Beach community and has a history of working with surrounding neighbors and the city. Shade remains committed to keeping the proper balance between the needs of both the business and of the neighbors. With that said, we feel the above proposal is consistent with this balance.

Best Regards,



Michael A. Zislis

Closing down is not a fair solution

The neighborhood campaign against Shade is completely misguided. There's a compromise to be had, but draconian bans on the businesses that support our city — and provide many jobs — are not the answer.

Mike Zislis, the owner of Shade, is a dedicated entrepreneur who has generated hundreds of jobs in our town. If you know him — and most of us do — he is totally committed to being a good neighbor and to supporting the community. He is making enormous and expensive efforts to address what are, frankly, the exaggerated complaints of a few people who would have preferred that the area of town that now holds Shade had stayed a vacant lot.

Zislis is too polite to say it to the neighbors, but I'm not. You bought homes overlooking the downtown and that does not require the rest of us to conform our lives in order 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.

That does not excuse unnecessary noise or inconvenience, and it's clear that Zislis is spending a great deal of time, money and effort to address the neighborhood's legitimate concerns. The answer is not to close down an important business at 11 — this isn't Peoria — but for everyone to keep working together to work out the issues. There's a fair solution out there, and "You close down" is not it.

Kurt Schlichter
Manhattan Beach

Los Angeles Boutique Hotels with lounges

Hotel Palomar

Lounge: BLVD 16

Hours: 12 a.m. Sun-Thurs, 1 a.m. Fri-Sat

Huntley Hotel

Lounge: The Penthouse

Hours: 10:30 dinner Sun-Thurs, 1:30 a.m. Fri-Sat

Viceroy Santa Monica

Lounge: Cameo Bar

Hours: 12 a.m. Sun-Thurs, 1:30 a.m. Fri-Sat

Mondrian Hotel

Lounge: Skybar

Hours: 2 a.m. daily

The Standard Hollywood and Downtown

Lounge: Cactus Lounge/Lobby Lounge: 2 a.m. daily

Hours: 2 a.m. daily

Crescent Hotel

Lounge: Boe

Hours: 10 p.m. Sun-Mon, 11 p.m. Tues, 12 a.m. Wed-Thurs, 1 a.m. Fri-Sat

Hotel Erwin Venice Beach

Lounge: High

Hours: closes as late as 1 a.m. depending on weather/crowd

Grafton on Sunset

Lounge: Glam at Boa

Hours: 2 a.m. nightly

Laurie B. Jester

From: Richard Thompson
Sent: Tuesday, July 14, 2009 5:36 PM
To: Laurie B. Jester
Subject: FW: Shade Hotel - Metlox Living
Importance: High

Richard Thompson
Director of Community Development

From: Laura Muenchow [mailto:L.Muenchow@Tri-anim.com]
Sent: Tuesday, July 14, 2009 3:21 PM
To: List - City Council; List - Planning Commission; Richard Thompson
Subject: Shade Hotel - Metlox Living
Importance: High

Dear City Council Members and Planning Commission Members:

Since we work and may not be able to make the Manhattan Beach Planning Commission Meeting on July 22 at 6:30 PM – we would like you to know our feelings about the Shade Hotel's current request and our concerns.

We have endured much living across the street from Metlox. Just when we were feeling good being heard and finally getting permitted parking in front of our home, along comes another issue affecting our quality of life. More Shade noise and annoyance.

Shade was originally supposed to be a "bed and breakfast" and it has turned into a hotel and nightclub and groovy pool/bar hangout area.

We are opposed to any expansion of Shade's hours of operation, upstairs/downstairs/inside/outside/bar/pool area – period!!!

You can control what door patrons enter and exit from at the hotel and where the valet cars and picked up and delivered, but you cannot control what happens after patrons exit the Shade hotel. We get to hear them partying on the roof and whooping and hollering while they find their friends and get to their cars - only ***with expanded hours – it will be later and longer!***

This complex was created with too much cement and very little trees and vegetation. The sounds carry far and wide with no greenery to absorb it. From inside of my house I can literally hear conversations across the street!!

*Please, Please, Please – leave things as they are – tell Mike Zislis – **no***

07/17/2009

and tell him to stop asking for more, more, more.

We want to be done with this. We are tired of writing and signing petitions, attending meetings to lobby for residents interests.

Put us first for a change.

Thank you.

Paul & Laura Muenchow
1304 No. Ardmore Avenue
Manhattan Beach, CA 90266
310.796.0500

Laurie B. Jester

From: Richard Thompson
Sent: Tuesday, July 14, 2009 5:37 PM
To: Laurie B. Jester
Subject: FW: Shade Hotel bar hours

Richard Thompson
Director of Community Development

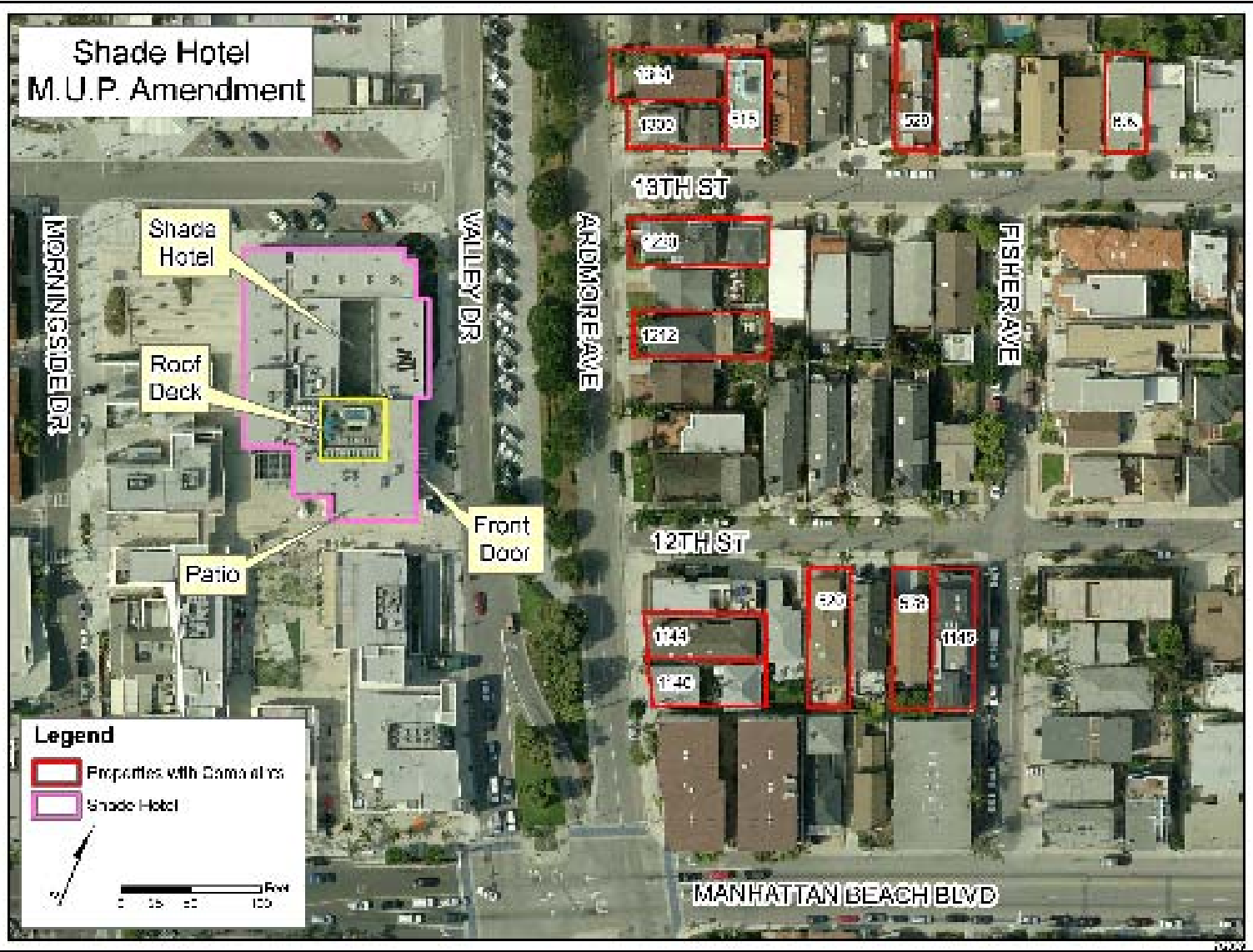
From: Richard Magnuson [mailto:RDMagnuson@hotmail.com]
Sent: Tuesday, July 14, 2009 5:02 PM
To: List - Planning Commission; Richard Thompson
Subject: Shade Hotel bar hours

Dear Commissioners,

At the previous meeting of the commission I listened to the comments of the hotel owner and residents on the telecast. I believe that the original intent of the use of the hotel would not be served by extending the bar hours as proposed by the owner. As one resident commented, it would become a "bar with a hotel attached". The bar should be there to serve hotel guests not as a destination bar. Please do not approve the owner's request to extend the bar's hours.

Richard Magnuson
510 17th Street
Manhattan Beach

Shade Hotel M.U.P. Amendment



Legend

-  Properties with Damage
 -  Shade Hotel
- 0 25 50 100 Feet

E. PUBLIC HEARINGS

06/24/09-3 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 commented that he was contacted by the applicant regarding work on a separate project. He stated that he does not plan to do business with the applicant, and he does not feel there is a conflict of an interest with him considering the subject proposal.

Planning Manager Jester indicated that the Commissioners have been presented with some additional information including sketches of a new entry for the hotel as proposed by the applicant; four letters from neighbors in opposition to the proposal with concerns regarding noise and activity on the site; and City Council and Commission minutes for the last revision to the Master Use Permit that was done in 2005. She stated that the applicant is proposing to expand the hours for the site to operate until midnight Sunday through Thursday and 1:00 a.m. on Friday, Saturday and holidays; to allow special events up to a maximum of 150 people; to allow dancing throughout the facility for the public rather than being limited to special events; to allow full food service for the public; and to construct a glass wall to separate the lobby bar area from the hotel. She stated that the first amendment to the Shade Master Use Permit was done in May of 2005 in order to provide consistency with the state Alcoholic Beverage Commission license provisions and to increase the number of people permitted for special events from 60 to 99. She indicated that construction of the hotel was completed in December of 2005.

Planning Manager Jester stated that the bar and outside terrace currently are permitted to operate until 11:00 p.m. and the rooftop deck is permitted to operate until 10:00 p.m. She said that alcohol service on the rooftop deck is required to end at 9:00 p.m. She indicated that activity within the interior courtyard for special events can extend until 11:00 on weeknights and midnight on Fridays and Saturdays. She stated that the request is to allow all areas of the hotel to operate until midnight on weeknights and 1:00 a.m. on Fridays, Saturdays, nights before holidays, and New Years Eve. She indicated that the current approval for special events was for a maximum of 99 people, and the subject proposal is to allow a maximum of 150 people. She commented that dancing currently is limited to guests at special events, and the subject proposal is to include dancing at all areas throughout the facility during operating hours. She stated that full food service is limited to hotel guests and special events currently. She indicated that the subject proposal is to allow full food service to the general public up to midnight Sunday through Thursday and 1:00 a.m. Fridays, Saturdays and holidays. She commented that staff felt they could not administratively approve installing the glass wall between the interior courtyard and the lobby bar because had concerns that it would expand the area of the lobby bar.

Planning Manager Jester commented that the applicant's goals are to clarify and fine tune the hotel's status as a four star destination and anchor for the Metlox development; place them on a level planning field with other luxury hotels; and help to support hotel revenues with the current economic downturn. She indicated that notice of the hearing was sent to residences within a 500 foot radius and notice was also published in the Beach Reporter. She said that staff received a number of public comments which were provided to the Commissioners with the staff report. She stated that the Public Works Department had concerns with increase trash with the proposed increase in food service and the grease interceptor, which can be addressed

during the plan check process. She indicated that the Building Safety and Fire had concerns with an increase in occupancy which can also be addressed during plan check. She indicated that the Police Department received 20 disturbance calls regarding the Shade Hotel during the past year. She indicated that half of the calls came from hotel employees regarding noise or unruly customers; and the other half of the calls came from neighbors. She stated that the Police do patrol the site regularly.

Commissioner Fasola indicated that he has decided it would be appropriate for him to recuse himself from consideration of the issue and left the room.

In response to a question from Commissioner Lesser, Planning Manager Jester said that the original operator of the site intended for it to be a bed and breakfast style hotel with the same number of rooms and layout as the current operation. She indicated that the operator dropped out of the project and a new applicant expressed interest in operating the facility. She said that the City Council through the DDA reviewed the project and determined that it was consistent with the original approval. She said that there was no change in the permitted hours with the proposal from the new operators.

In response to a question from Commissioner Lesser, Planning Manger Jester commented that the majority of complaints are related to the noise of patrons leaving the facility. She indicated that there have also been complaints regarding the noise from the rooftop deck area.

In response to a question from Commissioner Lesser, Planning Manager Jester indicated that staff felt they could not administratively approve the glass wall between the lobby bar and courtyard area as proposed because they felt that it would change the dynamics of the site. She indicated that having no separation from the hotel rooms and lobby bar helps to self-regulate the noise levels, as the hotel operators would not want the noise level from the bar area to disturb the guests in the rooms.

In response to a question from Commissioner Lesser, Planning Manager Jester stated that the Downtown Business Association has requested an amendment to the Code to allow an exception to the operating hours for businesses on New Year's Eve and other holidays. She commented that the request will come before the City Council as a separate application in July.

In response to a question from Commissioner Lesser, Planning Manager Jester said that the Commission may request that the applicant provide a noise study if they feel it is appropriate.

Commissioner Paralusz indicated that she has had lunch at the hotel. She pointed out that the hotel does provide lunch service, which is contrary to section 2, subparagraph 3 of Resolution PC05-08 which states that 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.

Chairperson Seville-Jones asked regarding the number of permit applications for special events for 99 people and further information regarding the necessity of extending the number to 150.

In response to a question from Chairperson Seville-Jones, Planning Manager Jester indicated that the request is to allow alcohol service during the operating hours throughout the facility.

Lieutenant John Dye stated that the Police Department receives a variety of complaints regarding disturbances. He indicated that there have been instances of employees that call the Police regarding guests and of complaints regarding taxi drivers having disputes. He said that

the Police have received calls from neighbors on Ardmore and to the east of the subject site regarding noise issues.

In response to a question from Commissioner Paralusz, Lieutenant Dye said that other areas in town where there have been noise complaints is by the pier and in the North End. He said that noise has also been an issue in the past regarding patrons at Sashi restaurant which is located near the Shade.

In response to a question from Commissioner Lesser, Lieutenant Dye commented that he does not know if the presence of additional employees would help control noise levels from people leaving an establishment.

In response to a question from Chairperson Seville-Jones, Lieutenant Dye said that there have been noise complaints after the hours which alcohol service is permitted at the hotel.

Michael Zislis, the applicant, pointed out that special events at the hotel can be larger than 99 people; however, 99 is the level at which the City is notified. He commented that most weddings have 125 people, which is the reason that they are requesting to change the threshold to 150. He clarified that there is only dancing for special events, and they do not want to modify the proposal to allow dancing within the other areas of the hotel. He indicated that they must have food available at all times in order for an establishment to be a four star hotel. He stated that they have been asked by the City to not advertise lunch service; however, it is offered to guests.

Commissioner Paralusz pointed out that lunch service is advertised on the website for the hotel, and she also received an e-mail advertising their lunch service.

In response to a question from **Mr. Zislis**, Lieutenant Dye said that the noise complaints were mainly from approximately four people.

Mr. Zislis stated that it was known by the City Council that they planned to provide full alcohol service. He commented that full liquor service is included with all four star hotels, and the Council voted unanimously in support. He commented that the hotel was key to the Metlox development. He said that their intent with the proposal is to be consistent and competitive with other hotels and restaurants by remaining open until midnight on weekdays and 1:00 a.m. on weekends. He stated that their business peaks at 10:00 p.m., and everyone currently is required to leave shortly after at 11:00 p.m. He commented that the noise would be diminished if people left at different times over a longer duration rather than all having to leave at 11:00 p.m. He stated that he has met with neighbor groups several times. He indicated that he installed the glass wall along the front entrance in response to a request from a neighbor. He commented that there is a sign asking patrons to respect the neighbors by being quiet. He said that they have also moved the valet service and taxi stand to Morningside Drive. He also commented that they have a condition in their contracts that any buses must drop off groups off of Morningside. He indicated that there is a glass wall being installed on the sky deck to help mitigate noise. He commented that they also require bands to play below a certain decibel level. He commented that installing a new glass wall between the bar and the interior courtyard would allow for patrons to use this as a hallway and exit out toward Morningside Drive. He pointed out that he is accessible to the neighbors, which would not be the case with an operator who is not local.

In response to a question from Commissioner Lesser, **Mr. Zislis** said that he is making the subject request in order to be able to operate past 11:00 p.m. for his customers. He commented

that he is also able to book more hotel rooms if events extend past 11:00 p.m. He pointed out that they should be allowed to operate until the same hour as Petros.

In response to a question from Commissioner Lesser, **Mr. Zislis** said that some of the noise issues are from people leaving the hotel; however, there is also an issue with people who visit other establishments in the downtown area and return to the nearby free parking lot that closes at 3:00 a.m. He suggested that the parking lot be closed at 11:00 p.m. in order to help mitigate noise issues.

John Strain, representing the applicant, requested that the Commission distinguish between the concerns related to the Shade from other noise concerns related to the downtown area. He said that many of the concerns expressed appear to be the result of loud and boisterous people on the street that may have been visiting the Shade as well as other area establishments. He stated that the applicant has done a great deal to mitigate the noise from the hotel from impacting the neighbors; however, it is difficult to stop hotel guests from making noise on the street as they leave. He requested that the Commission be careful in differentiating concerns with Shade with those of the downtown in general. He indicated that the concerns of the residents must be balanced with the interests of the community and downtown commercial district. He pointed out that the hotel results in a large amount of tax revenue for the City. He stated that if they are not allowed to operate as other hotels and businesses, they would not be able to generate as much tax revenue. He stated that they also feel the image and quality of the hotel substantially enhances the downtown area. He stated that the hotel provides rooms, a lounge, and a place for meetings and gatherings.

Chairperson Seville-Jones opened the public hearing.

Robert Lytle, a resident of the 500 block of 13th Street, stated that people consume more alcohol during later hours. He stated that putting in the glass partition around the patio area would result in the noise raising up and back toward the residences. He said that such a wall only increase the noise impacts. He commented that he can currently hear the noise of patrons and bands playing at the hotel from his home.

Teresa Cho, a resident of the 500 block of 12th Street, said that she can hear noise from the hotel and bar in her children's bedrooms. She requested that there be a four week continuance of the hearing to allow the residents more time to review the report. She commented that the use was originally envisioned as an inn and is now basically a singles bar with a hotel. She stated that the proposal is contrary to maintaining the small town family oriented environment that was envisioned in the General Plan.

Nancy Gilombardo, a resident of the 1100 block of North Ardmore, stated that she and her husband have made several calls to the hotel and the police to ask that the noise level be reduced. She said that the noise level from the hotel continues after 11:00 p.m. as the patrons linger, and the issue would become worse if the hours are extended. She indicated that their patio doors must be kept shut because of the noise, which is difficult during the summer. She stated that she is an emergency room nurse as well as a nursing instructor and needs to be well rested for her jobs. She commented that the hotel was originally proposed as a quaint boutique hotel and instead has become a night club. She indicated that she does not want the hours to be extended.

Stephanie Hubbard, a resident of the 1300 block of North Ardmore, indicated that the original intent was not for the establishment to become a destination hotel and draw large numbers of people. She commented that she can hear conversations at the hotel from her bedroom. She

said that the establishment is not only a hotel but also a bar. She suggested that people be directed to exit out of the west side rather than toward Valley.

Shaiko Wisner, a resident of the 500 block of 13th Street, said that her bedroom window is across the street from the hotel, and she has a hard time sleeping because of the music, laughter, conversation and noise coming from the hotel. She said that she would not want for the hours of operation to be extended. She indicated that the additional noise from the extended hours would have a negative impact on the neighbors.

Mike Welsh, a resident of the 600 block of 13th Street, stated that he can hear conversations taking place at the hotel from his living room, and he is greatly concerned with the same noise being generated until midnight or 1:00 a.m. He stated that the hotel was originally intended to be a boutique hotel and has instead become a four star destination. He stated that extending the hours of drinking and music will not mitigate the existing conditions.

Jeff Dooley, a resident of the 1100 block of North Ardmore, indicated that although the applicant has taken measures to mitigate the noise concerns, there are still many residents at this hearing who are complaining about the noise. He said that although there is a great deal of soundproofing, there still is noise after the hours of operation permitted for the hotel. He said that he would not want the hours to be extended.

Joan Mueller, a resident of the 1200 block of Ardmore, stated that she used to contact the hotel and the police regarding the noise from the hotel but had little results. She indicated that they shut their windows and use a loud fan in order to contain the noise. She said that the panels that were installed for the patio have helped to reduce the noise. She indicated, however, that the noise from people leaving the hotel cannot be contained. She commented that they are concerned with having more noise that extends to even later hours. She stated that they have 75 signatures in opposition to the proposal. She stated that they are opposed to longer operating hours for the hotel.

Brent Taylor, a resident of the 500 block of 12th Street, said that they are able to hear music from the hotel in their living room. He asked that the Commission use foresight and not approve the extended hours.

Alan Summer, a resident of the 1100 block of The Strand, stated that he knew when he bought a home in the downtown area that there would be noise. He said that he understands that there is an issue regarding noise from the hotel, however, he feels the complaints which have been expressed by the neighbors are overstated. He stated that the main concern regarding the noise from the hotel is with the location of the exit rather than with the operating hours. He suggested that decibel readings be taken to monitor the noise level. He commented that the town is vibrant but not reckless. He indicated that the managing of security at the Shade is very efficient, and they have been thoughtful and careful in managing the concerns.

Joe Taylor, a resident of the 500 block of 12th Street, said that across Valley there is a hedge behind a wall with brick columns and iron railing separating the hotel from the residences, and the wall and hedge ends at a lawn area. He indicated that people will not use the crosswalk at Manhattan Beach Boulevard but rather cross the street at 12th and Ardmore and continue across directly onto Valley across the lawn area. He indicated that the City needs to continue the existing fence further in order to prevent people from cutting across and going into the neighborhood. He said that the other restaurants in the area do not have roof decks. He said that the issue of noise from the deck area of the hotel does need to be mitigated.

Clarence Carter said that the owners of the hotel are very interested in doing the right thing and responding to concerns of the community. He said that on weekends they ask people to exit toward the center of the Metlox complex rather than toward Valley. He commented that there are groups of residents who want to have a place to gather as well as groups of residents who would prefer to enjoy Fridays and Saturday evenings quietly at home. He commented that the Commission must determine what is best for the community as a whole rather than for one particular group. He pointed out that if **Mr. Zislis** leaves, the same issues would still exist with another operator. He said that they do not want the neighbors to be upset. He stated that issues regarding noise from special events at the hotel are being addressed, and they will continue to work to contain the noise. He commented that there will be an issue of noise regardless of the operator because the Metlox complex is an outside facility.

Jonathan Tolkin, the owner of the Metlox project, said that the operators of the hotel have attempted to respond to the noise concerns of the neighbors, but the site is located in the central business district. He commented that in developing the Metlox project, they attempted to arrive at a balanced mix of uses that would benefit the community. He commented that the issue is not regarding the hours of operation. He indicated that exiting patrons of the hotel to the west rather than the east may help to mitigate noise concerns. He commented that he would encourage the Commission to reach a solution with the hotel operator to allow the operation to continue to be vibrant and offer services to the community while minimizing the impact to the residents. He commented that they have lost tenants in the Metlox development with the current economy and they are considering additional uses to enhance the development.

Chairman Seville-Jones closed the public hearing.

Commissioner Andreani indicated the original approval for a hotel was not granted easily. She indicated that it was originally intended to be a bed and breakfast to draw overnight guests to the downtown who would visit other businesses for dinner and shopping. She indicated that in approving limited bar and food service, the City Council did not want the hotel to be in competition with the downtown businesses but rather to benefit them. She said that the City Council also did not want to create disturbances for the nearby residences. She indicated that based on comments she has heard over the last several years, the hotel has become a bar with a hotel rather than a hotel with a bar. She said that the request for extended hours and size of special events and extended food service is contrary to the original intent for the hotel and the Metlox development. She said that mixed use is part of the charm of the downtown area. She commented that her understanding is that it has been the position of the City to not permit dancing at establishments in the downtown area. She said that she does not remember dancing being discussed as part of the special events, and she asked for further information regarding how the Noise Ordinance applies to dancing at the hotel. She stated that Exhibit G to the staff report shows that the downtown area does not lack late night alcohol service, and she does not feel that the hotel providing alcohol service during later hours is providing an additional benefit to the downtown area. She said that the Metlox was intended to be family friendly. She indicated that although the operator is intending to mitigate the issue of noise, it is not possible. She said the business was not intended to be a four star hotel. She indicated that the glass partition intended to help to channel people out to the west exit may be a good idea. She commented that the requests for extended hours, the size of special events, and the extended food service are not in keeping with the intended use of the property.

Commissioner Paralusz indicated that she bases her opinions and analysis regarding issues on public comments, and she thanked the members of the community for their participation. She also commended **Mr. Zislis** on his participation and work in the community. She commented that the hotel has become a successful operation, which is the reason for the noise concerns. She stated that the hotel has taken several measures to mitigate noise concerns including the

glass wall at the patio. She stated that she is reluctant to approve the request to increase the operating hours due to the large number of complaints from the neighboring residents. She said that she is not convinced that the sound can be mitigated with the extended operating hours to the extent the neighbors would not be impacted. She commented that she is persuaded that extending the hours would aggravate the problem further. She indicated that she would support allowing more people at special events and allowing dancing at special events. She indicated that people want to dance at weddings, and she does not feel it would be a problem. She commented that she is in support of allowing the hotel to extend their food service. She said that she would support the glass wall in the lobby area and the glass wall that would front on Valley. She said that a great deal of the noise appears to be emanating from the front of the hotel on Valley. She commented that having a wall along Valley and exiting people toward Morningside would help to mitigate some of the noise concerns. She commented that she agrees with **Mr. Taylor** that there is a concern with people crossing the street from the hotel to the lawn area rather than using the crosswalk, and she would also support the possibility of extending the fence along Valley.

Commissioner Lesser stated that he has sympathy for the residents who live near the Shade. He stated that the site could have been developed further if it had been permitted by the City Council, but the residents who lived there did not have an expectation that the site would be developed as it has. He commented, however, that the hotel has become an important part of the downtown community. He commented that he appreciates the measures the applicant has taken to attempt to mitigate noise concerns. He stated, however, that he is looking for a more comprehensive proposal regarding additional noise mitigation measures that can be incorporated in some of the applicant's proposals. He suggested possibly including additional acoustic studies. He commented that he would support patrons of the hotel exiting to the west rather than towards Valley, and he would like additional information regarding how that can be achieved. He commented that many of the neighbors may be more receptive if there were a more comprehensive proposal to address the concern with the extended hours of hotel guests loitering after leaving the site.

Chairperson Seville-Jones stated that she is not closed to the idea of the proposal, although she is leaning against allowing the extended hours. She commented that it is not clear whether the proposals for sound mitigation measures that have been suggested are part of the discussion regarding extending the operating hours. She stated that she does not support allowing the extended hours because it means that the adjacent residents would be subjected to noise from patrons from the hotel exiting onto the street for a longer period of time. She said that she might be willing to consider possibly relaxing the requirement that alcohol service must end a half hour before closing if the orientation of people exiting the hotel were changed toward Morningside. She said that it appears reasonable to allow lunch to be served. She suggested allowing alcohol service from 11:00 a.m. She commented that she is not supportive of allowing alcohol service from 6:00 a.m. She said that **Mr. Zislis** has done his best job he can to mitigate the conditions that have arisen from the alcohol license being granted. She commented that she would like staff to give more consideration to eliminating the restrictions on advertising for the lounge and bar. She said that she would defer to staff regarding whether the notification requirement for special events should be at 99 or 150 people. She stated that she also would like further information regarding noise issues. She stated that many neighbors have expressed concerns regarding the noise, and she does not feel there has been sufficient information in the proposal to support allowing an extension of the operating hours.

Chairperson Seville-Jones reopened the public hearing.

Mr. Zislis stated that suggested that a committee be formed with three of the adjacent residents to work with him on mitigating the noise. He stated that he does not want to upset the

neighbors and wants to work with them. He suggested constructing a wall to mitigate noise to along Valley where the iron railing on top of the wall in Veterans parkway is now, similar to the one at Manhattan Village. He pointed out that they do not serve alcohol until 8:00 or 9:00 a.m., and it is the language of the State alcohol license that provides for alcohol service between 6:00 a.m. and 2:00 a.m. He stated that his main concern is being required to close at 11:00 p.m. on Friday and Saturday nights, and it is important for his business to be allowed to operate until midnight on weekends. He indicated that he has worked to be a good neighbor on his own and without pressure from the City.

A motion was MADE and SECONDED (Andreani/Paralusz) to **CONTINUE** the hearing to July 22, 2009

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 10:20 p.m. to Wednesday, July 22, 2009, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development

FROM: Laurie B. Jester, Planning Manager

DATE: June 24, 2009

SUBJECT: 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- Michael A. Zislis, President)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, DISCUSS, and PROVIDE DIRECTION.**

PROPERTY OWNER

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

APPLICANT

Manhattan Inn Operation Company
1221 North Valley Drive
Manhattan Beach, CA 90266

PROJECT OVERVIEW

The Metlox project was approved by the City Council in July 2002 and includes a two-story subterranean public parking structure accommodating approximately 460 cars with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area,. The commercial development includes a 38-room hotel, the Shade Hotel.

The proposed project is a modification of the previously approved Master Use Permit to allow an extension of hours, an increase in the number of people allowed for special events, dancing, full food service, and a glass wall to separate the lobby bar from the interior hotel courtyard. A summary of the allowed uses, hours of operation, alcohol service and entertainment for various uses on the Metlox site is attached as Exhibit A.

BACKGROUND

The Metlox project is the culmination of many years of community participation and input through workshops and meetings. 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 Environmental Impact Report (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- (CC Resolution No. 5770- attached Exhibit B)
- 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
- December 2005- Shade Hotel opened
- May 2005- Shade Hotel Use Permit Amendment approved to allow full alcohol service throughout the Hotel to the general public as well as guests (as required for conformance with the State ABC license), and to increase the number of people allowed at special events from 60 to 99. (PC Resolution No. 05-08- attached Exhibit C)
- December 2005- Petros Use Permit Amendment to allow the restaurant to remain open one more hour, with closing times of 12:00 am (midnight) Sunday –Thursday, 1:00 am Friday and Saturday and to allow limited alcohol sales for off-site consumption
- May 2008- Le Pain Quotidien Bakery Use Permit Amendment to allow service of limited beer and wine with food 10:00 am to 7:30 pm, seven days a week.

PROJECT DESCRIPTION

Overview

The Shade Hotel requests that five changes be made to the existing Master Use Permit:

1. **Hours-** Allow an extension of hours for all locations in the hotel from 6:00 am until 12:00 am (midnight) Sunday through Thursday, and until 1:00 am Friday and Saturday as well as nights before Holidays and New Years Eve. The current approval allows hours until 11:00 pm for the lobby bar and outside terrace and 10:00 pm for the rooftop (with

alcohol service stopping 1 hour prior). The interior courtyard is allowed to have special events (weddings, parties, etc.) up until 11:00 pm Sunday-Thursday and 12:00 am (midnight) Friday and Saturday (with alcohol service stopping ½ hour prior).

2. **Special Events-** Allow an increase to 150 people for special events The current approval allows 99 people for special events.
3. **Dancing-** Allow dancing throughout the facility during all hours of operation for all customers, instead of limiting dancing to guests at special events only.
4. **Food Service-** Allow full food service, with the same hours as above, open to the public (breakfast, lunch and evening “small plates”). The approval currently allows limited food service only for hotel guests, with breakfast served from 6:00 am to 10:00 am Monday-Friday and 6:00 am-11:00 am Saturday and Sunday, no lunch service and room service at any time. Evening appetizers may be served to the general public, and the ABC license requires that food be available when alcohol is sold. Full food service for guests at special events is allowed.
5. **Wall-** Allow installation of an openable accordion glass wall to separate the lobby bar from the interior hotel courtyard, instead of the open walkway that currently separates the lobby and the hotel courtyard. This would create an enclosed hallway to separate the lobby from the hotel courtyard and rooms.

Applicant Description

The applicant states that the reason for the Amendment is to clarify and fine-tune the Hotels status as a “four-star” destination and as the anchor for the Metlox Plaza. They believe that the Amendments will put them on a level playing field with other luxury hotels as well as other hospitality businesses. Additionally, they indicate that the modifications will help support the Hotels revenues with the economic slowdown. In the project application materials the applicant provides a more complete project background, addresses modifications to the site to address operational issues that they have undertaken over the years, and provides a redline-strike out of proposed language changes to the Master Use Permit conditions. (Exhibit D)

Master Use Permit and Coastal Permit

The applicant addressed the required Use Permit findings in their application, as discussed above. In accordance with Chapter 10.84 of the MBMC the Planning Commission conducts a public hearing and has the authority to approve, approve the conditions or deny the Use Permit Amendment. With any action the Use Permits findings must be considered (10.84.060) , and conditions (10.84.070) may be placed on an application.

The Coastal Development Permit for the original Master Use Permit was issued by the California Coastal Commission and because there are no relevant coastal issues related to the subject application an amendment to the Coastal Permit is not required. Hotels and food service are considered visitor serving uses by the Coastal Commission, which encourages these types of uses to allow the public the ability to access and enjoy the coastal region and resources.

Additionally, the Coastal Commission does not regulate alcohol or alcohol related provisions in local land use decisions such as Use Permits.

Entertainment

The Master Use Permit, Condition No. 40 or Resolution No. 5770, regulates entertainment on the site by requiring an annual Entertainment Permit for any entertainment other than non-amplified background-type music, with a maximum of 2 entertainers. The Entertainment Permit is required to be submitted to the Director of Community Development for review and approval, with input from the Police and Fire Departments. Appropriate conditions are placed on the Permit to minimize potential negative impacts including, but not be limited to, hours, size and location of performance or dance area, size of band and number of performers, numbers of performance days per week, type and location of amplification, speakers and soundproofing, and volume of amplification. The Permit is reviewed annually to determine if it is appropriate to renew the permit, deny the permit, or modify the conditions of approval. Since issues may arise with the combination of the alcohol and entertainment, this condition provides the tools to assure that any potential issues are addressed. The Entertainment Permit conditions may be more restrictive than the Use Permit, although the applicant has requested that they be consistent.

Disposition and Development Agreement (DDA)

The DDA for the Metlox site is an agreement between the City and the project developer, the Tolkin group, that establishes uses, lease terms, rent, maintenance and other responsibilities and requirements for both the City and Tolkin. The City Council negotiated and approved the document, and through the Use Permit Amendment the Council will consider and approve an amendment to the DDA if required.

Metlox site future projects

Over the past several months staff has had discussions with the landlord and several tenants about amending the Master Use Permit for the site. The site has evolved over the years and the landlord and tenants would like to respond to those changes and anticipate future needs. Some flexibility in the uses on the site may be desired to respond to customer and tenant needs as taste, and leisure and consumption patterns evolve. The landlord is still formulating ideas for these future revisions and is not ready at this time to submit a proposal. Any future plans will be reviewed by staff to determine if an amendment to the Master Use Permit and/or DDA is required.

Noticing and comments

Notices of the public hearing were mailed to all property owners within a 500 foot radius of the project site and published in the Beach Reporter. Public comments are attached as Exhibit E. Concerns were raised by the public regarding noise, alcohol, hours and operations.

The application was also circulated to other Departments for review and comments. The Police Department verbally indicated that they felt that having consistent hours of operation for all tenants and uses on the Metlox site would be beneficial and easier to enforce. The Police Department provided Planning Staff information on the Police Call History for the Shade Hotel from May 2008 through May 2009. During this one-year period there were 20 calls reporting disturbances such as music, parties, and loud noises. For the majority of these calls, the Police Department responded,

then advised and assisted at the site, as well as with the complainants. The Police also indicated to staff that on rare occasions a report will go directly to the watch commander and not through the dispatch and in these cases the complaint would not be on the Police Call History List. The Police Department does regularly patrol the Metlox site, both on foot and by vehicle, an average of 1-2 times a week during the summer months and less often during other times of the year according to records, although routine patrols are not always documented in the Call History.

The Public Works Department and Engineering Division indicated that the Hotel would need to confirm that the grease interceptor is adequate to accommodate any increased capacity due to the proposed increase in food service and a maintenance program with regular inspections would be necessary. They also stated that possible impacts with increased trash generation needed to be addressed. The Building Safety Division and Fire Department indicated that adherence to maximum building occupancy would be critical. If the Planning Commission recommends approval of the project then all of the comments from other Departments, attached as Exhibit F, will be incorporated into the conditions of approval as appropriate. Additionally, a list of businesses with alcohol licenses in the Downtown is included as Exhibit G.

Environmental Review

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.

CONCLUSION

The project before the Planning Commission is an Amendment to the Master Use Permit for the Shade Hotel. Staff recommends that the Planning Commission open the public hearing, discuss the project , provide direction, and continue the public hearing to a date certain.

ATTACHMENTS

- Exhibit A: Summary of Metlox allowed hours, Alcohol Service and Entertainment
- Exhibit B: City Council Resolution No. 5770- Master Use Permit- Metlox
- Exhibit C: Planning Commission Resolution No. PC 05-08- Shade Hotel Master Use Permit Amendment
- Exhibit D: Application with Project Description and Findings
- Exhibit E: Public comments
- Exhibit F: Department comments

Exhibit G: List of Establishments with Alcohol licenses in Downtown
Exhibit H: Plans- (Not available electronically)

c: Mike Zislis- Shade Hotel
Jon Tolkin- Tolkin Group
Glenn Loucks- Tolkin Group

G:\PLANNING DIVISION\Temporary (file sharing)\Bobby\Metlox\Shade- hours, restaurant, special events, operations MUP A-2009\PC report Shade hours MUP Amend 6-24-09.doc

Metlox
Allowed Hours, Alcohol Service and Entertainment
11-08
[CC Resolution No. 5770, and PC Resolution No's. 05-08
(Shade), 06-20 (Petros) and 08-08 (Le Pain)]

Shade Inn-Hours

Lobby Zinc Bar and Zinc Terrace (outdoor south side)- 11:00 PM daily

Interior Courtyard- Only to be used for special events and functions -11:00 pm Sunday –Thursday, 12:00 midnight Friday and Saturday. (Alcohol service to stop ½ hour prior)

Rooftop Deck- 10:00 pm daily (Alcohol service to stop 1 hour prior)

Town Square and Sashi Sushi Restaurant -Hours

11:00 pm Sunday –Thursday, 12:00 midnight Friday and Saturday (Alcohol service at restaurant to stop at 10:30 pm Sunday –Thursday, 11:30 pm Friday and Saturday)

Petro's Restaurant -Hours

12:00 am (midnight) Sunday –Thursday, 1:00 am Friday and Saturday (Alcohol service at restaurant to stop at 11:30 pm Sunday –Thursday, 12:30 pm Friday and Saturday)

Le Pain Quotidien Bakery- Hours

7:00 am to 7:30 pm seven days a week. Service of limited beer and wine with food 10:00 am to 7:30 pm, seven days a week.

All tenants-Entertainment

Background music, non-amplified limited to 2 entertainers allowed without a permit.

Dancing, amplified live music, or more than 2 entertainers requires an Entertainment Permit.

Shade has an Entertainment Permit, no other tenant do. Any events require a 7 day prior notice and the Permit has a number of other conditions.

RESOLUTION NO. 5770

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A NEW COMMERCIAL DEVELOPMENT, PUBLIC AREAS, AND RELATED IMPROVEMENTS, AT THE METLOX SITE- 1200 MORNINGSIDE DRIVE (Metlox, LLC c/o Tolkin Group)

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. Metlox, LLC c/o Tolkin Group is seeking approval of a Master Use Permit and Coastal Development Permit, to allow the construction of a new commercial development, public areas, and related improvements, at the Metlox site- 1200 Morningside Drive in the City of Manhattan Beach.
- B. In accordance with the Manhattan Beach Local Coastal Program (MBLCP) a Use Permit approval is required for the project in the Downtown Commercial Zone.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, in the non-appealable area, and is subject to a Coastal Development Permit.
- D. The applicant is Metlox, LLC c/o Tolkin Group and the property owner is the City of Manhattan Beach.
- E. 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 based on a project consisting of 141,000 square feet - project size reduced several times over the years due to public concern and the project proposed is 63,850 square feet
 - April 2001- The City Council certified the EIR and directed Staff and the Tolkin Group to work together to revise the project to:
 - Reduce the size to 60-65,000 square feet
 - Reduce the height to 26 feet, and
 - Consider reducing the height or eliminating the Lookout Tower
 - April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
 - May 2002- The City Council approved two levels of public parking on the Metlox site
 - June 2002- Application for a Master Use Permit and Coastal Development Permit for the Metlox site submitted
- F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of June 26, 2002 and continued the public hearing to July 10, 2002. The public hearings were advertised pursuant to applicable law and testimony was invited and received. At the meeting of July 10, 2002, the Planning Commission adopted Resolution No. PC 02-17 determining compliance with the California Environmental Quality Act (CEQA) and a previously certified Environmental Impact Report which includes Mitigation Measures and a Mitigation Monitoring Program, and adopting a Statement of Overriding Considerations, Resolution No. PC 02-18, approving the Master Use

Permit and Coastal Development Permit for the commercial development and the public areas, and Resolution No. PC 02-19, approving the Master Use Permit and Coastal Development Permit for the subterranean public parking structure. All decisions set forth in those resolutions are based upon substantial evidence received at said public hearings.

- G. The City Council of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meetings of July 16, 2002. The public hearing was advertised pursuant to applicable law and testimony was invited and received. All decisions set forth in this resolution are based upon substantial evidence received at said public hearing.
- H. 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. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, public Library and on the City's website. On June 26 and July 10, 2002 the Planning Commission held public hearings to discuss the proposed project, including the Master Use Permit, Coastal Development Permit, and compliance with the requirements of CEQA. On July 10, 2002 the Planning Commission adopted Resolution No. PC 02-17 determining the project is in compliance with CEQA, and adopting a Statement of Overriding Considerations with regard to unavoidable significant impacts.
- H. 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 properties to the north are zoned Downtown Commercial and Public and Semipublic, and the properties to the east are zoned Open Space.
- I. The General Plan designation for the property is Downtown Commercial.
- J. The proposed project will provide a new approximate 63,850 square foot commercial development and approximately 40,000 square feet of public areas. A separate Master Use Permit and Coastal Development Permit for approximately 430 subterranean public parking spaces on the project site is proposed. Street improvements were approved with the Public Safety Facility Use Permit and Coastal Development Permit, including the extension of 13th Street as a two-way street from Morningside Drive east to Valley Drive, conversion of Valley Drive from one-way southbound traffic to two-way traffic between 13th and 15th Streets, and conversion of Morningside Drive to one-way northbound traffic between Manhattan Beach Boulevard and 13th Street.
- K. The existing surface parking lot at 1148 Morningside Drive, approximately 400 square feet in area and located south of the Metlox loading area, may be added to the project site to provide a pedestrian and/or vehicular entryway into the project from Morningside Drive. The City is currently in the process of negotiating the purchase of the parking lot site. This may result in more than three buildings being included in the project however the total approved square footage (63,850 square feet) would not be exceeded. The total parking provided in the subterranean public parking structure would increase by approximately 28 spaces.
- L. Construction of the commercial buildings and public areas are anticipated to take approximately 10 months beginning in October 2003, with completion in August 2004. Prior to construction of the commercial building and the public areas, the subterranean parking structure will be constructed, with construction anticipated from January 2003 through October 2003.
- M. 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.
- N. This Resolution, upon its effectiveness, constitutes the Master Use Permit and Coastal Development Permit for the subject property.
- O. Based upon State law, and MBLCP Section A.84.050, relating 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 Metlox project is consistent with the Downtown Commercial (CD) Zone purpose in that the appearance and effect of the buildings are harmonious with the character of the area in which they are located. The building materials, scale, roof pitches, and details are compatible with the existing Downtown environment, the Civic Center, and the surrounding commercial and residential uses. The scale and articulation of the façade of the proposed structures is consistent with the surrounding residential and commercial area, which has 1 to 3 story buildings, approximately 30 feet in height. The Metlox project is primarily 2-story, 26 feet in height with limited architectural features up to 30 feet in height, with the possibility of a limited 3rd story for the Inn.

The parking and loading facilities are adequate in that they will expand the existing onsite parking and will exceed the parking demand. The buildings are also pedestrian oriented, providing doors and windows at the sidewalk and Plaza, and maintaining pedestrian links within the site and to the Civic Center and other surrounding sites which then link to parks, open space and the beaches.

The project provides a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the city and region. Metlox will strengthen the city's economic base, but also protect small businesses that serve city residents. The project is intended to create a suitable environment for various types of commercial uses, and protect surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts. Additionally the Metlox project is intended to accommodate a broad range of community businesses and serves beach visitors.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since, the Metlox project is consistent with the following General Plan Goals and Policies. Additionally, since the project is consistent with the Local Coastal Program (LCP), as discussed below, and since the LCP is consistent with the General Plan, the project is also consistent with the General Plan.

GOALS AND POLICIES: LAND USE

GOAL 1: MAINTAIN THE LOW PROFILE DEVELOPMENT AND SMALL TOWN ATMOSPHERE OF MANHATTAN BEACH.

Policy 1.1: Limit the height of new development to three stories where the height limit is 30 feet or to two stories where the height limit is 26 feet, in order to protect the privacy of adjacent properties, reduce shading, protect views of the ocean, and preserve the low profile image of the community.

Policy 1.2: Require the design of all new construction to utilize notches, or balconies, or other architectural details to reduce the size and bulk.

Policy 1.3: Require the use of landscaping and setbacks to reduce the bulk in new buildings and add visual interest to the streetscape.

Policy 2.3: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

GOAL 3: ENCOURAGE THE PROVISION AND RETENTION OF PRIVATE LANDSCAPED OPEN SPACE.

Policy 3.1: Develop landscaping standards for the Downtown which serve as a unifying and humanizing theme for the area.

Policy 3.3: Encourage the replacement of mature trees removed by new construction activity throughout the City with specimen trees.

Policy 4.1: Protect all small businesses throughout the City which serve City residents.

Policy 5.1: The City recognizes the need for a variety of commercial development types and has designated areas appropriate for each. The City shall encourage development proposals which meet the intent of these designations.

Policy 5.2: Require the separation or buffering of low-density residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, and other techniques.

GOAL 6: CONTINUE TO SUPPORT AND ENCOURAGE THE VIABILITY OF THE "DOWNTOWN" AREA OF MANHATTAN BEACH.

Policy 6.1: Encourage the upgrading and expansion of business in the Downtown area to serve as a center for the community and to meet the needs of beach area residents.

Policy 6.2: Develop and encourage the use of design standards for the Downtown area to improve its visual identification as a unique commercial area.

GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located 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 issuance of a certificate of occupancy.
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 Metlox commercial development and public areas portion of the EIR will all be complied with. Conditions to conform to applicable Code standards will apply. A temporary construction plan will ensure that construction impacts will be minimized to the extent feasible.

P. Based on the MBLCP Sections A.96.150 the following findings are made:
That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program, since the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

COASTAL ACCESS POLICIES

A. Access Policies

Policy I.A.1: The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone.

Policy I.A.3: The City shall preserve pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walkstreets and public open spaces. See Figure NR-1 of the General Plan).

B. Transit Policies

Policy I.B.3: The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.

II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES

Policy II.1: Control Development within the Manhattan Beach coastal zone.

A. Commercial Development

Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.

Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.

Policy III.3: The City should continue to maintain and enforce the City ordinances that prohibit unlawful discharges of pollutants into the sewer system or into the tidelands and ocean. (Title 5, Chapter 5, Article 2; Chapter 8).

Policy III.14: City Storm Water Pollution Abatement Program: The City of Manhattan Beach has initiated a storm water pollution abatement program that involves not only several of the City departments working together, but also the other cities in the Santa Monica Bay watershed. The initial action plan was to create a new ordinance regarding illegal dumping to catch basins and the storm drain systems. In the process it was found that a number of ordinances already exist on the books that cover most of the original concerns. It was determined that those significant codes contain strong enforcement capabilities and that the present city staff needs to be educated and made aware of those existing codes, some of which date back to the 1920's but are still enforceable. The program is to develop codes and building standards to implement the Good Housekeeping requirement and the Best Management Procedures of the Santa Monica Bay Restoration Project Action Plan, educate staff, eliminate potential loopholes within the existing code sections, and initiate supplemental ordinances regarding storm water pollution abatement giving the County the right to prosecute polluters to the County storm drain system (a requirement of the Santa Monica Bay storm way discharge permit).

The Final EIR for the Civic Center/Metlox project also provides a discussion on consistency with the policies of the LCP.

SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit and Coastal Development subject to the following conditions.

General Conditions

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the City Council on July 16, 2002, subject to any special conditions set forth below. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

Site Preparation/Construction

2. A Traffic Management and Construction Plan shall be submitted in conjunction with any construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including but not limited to delivery of materials and parking of construction related vehicles.
3. During the demolition and construction phases of development, a daily clean-up program for all areas affected by the project shall occur, including the pickup of all debris (utilizing an approved trash dumpster or other trash control method) at day's end and the sweeping and continued watering down of the site to assist in mitigating the movement of dirt and dust upon adjoining properties.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department. Existing utility poles and lines on the project site and immediately adjacent to the project site, not including any across any street, must be placed underground pursuant to the requirements of Public Works.

Operational

5. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
6. Plans shall be submitted to the Director of Community Development for review and approval that shows all proposed rooftop mechanical equipment screened from the public right-of-way in accordance with the requirements of the MBMC. Equipment and screening may be incorporated into the architectural features allowed on the buildings. Equipment shall be installed per the approved plans prior the building permit final.
7. Post construction (operational) noise emanating from the site shall be in compliance with the Manhattan Beach Municipal Code Noise Ordinance, Chapter 5.48.
8. Delivery operations shall be conducted in such a manner so as not to be in violation of the city's noise ordinance. The term "delivery activities" shall include, vehicles or delivery equipment being started or idled, playing of radios, tape players or other devices, loud talking, and unloading of materials. Business delivery doors shall not be opened before hours of permitted deliveries as specified herein. Delivery vehicles shall park in designated commercial loading areas only and shall not obstruct designated fire lanes.

9. Landscaping and maintenance activities (including, but not limited to parking lot cleaning, grounds-keeping, and outdoor equipment cleaning) shall occur in accordance with a Landscape Maintenance Plan to be approved by the Director of Community Development. The Maintenance Plan shall establish permitted hours of operation for specific maintenance activities and areas of site, based on compatibility with nearby land uses, both on and adjacent to the center.
10. All landscaping materials shall be maintained to the satisfaction of the Director of Community Development.
11. Routine trash collection on the entire site shall be consistent with the hours that are specified in the City's trash contract (which is currently after 7:30 a.m. and before 6:00 p.m.), unless other hours are approved by the Public Works Director. Construction material trash collection activities (drop off and pick-up) shall be limited to hours of permitted construction as specified in the City's Noise Ordinance, which is between 7:30 and 6:00 p.m. Mondays through Fridays, and between 9:00 a.m. and 6:00 p.m. on Saturdays.
12. All trash storage areas shall be screened, secured and maintained in a sanitary condition and all tenants/business owners shall take appropriate measures to prevent prohibited or undesirable activities as defined in the Municipal Code (Sec. 5.24.060) including but not limited to, scavenging, excessive accumulation of refuse, and allowing any portion of the property to become a breeding ground for flies, wild rodents or other pests. Trash storage areas shall be designated and bins shall be maintained within the designated areas.
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-street parking facilities subject to Community Development Department approval. The property owner shall include prohibitions against employee parking on local streets in any lease and/or rental agreements.
14. The operators of the facility shall police the property, and all areas immediately adjacent to the businesses, during the hours of operation to keep it free of litter.
15. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
16. Public bicycle parking shall be incorporated into the design of the project. Plans shall be submitted to the Director of Community Development for review and approval showing the bicycle parking.
17. Safety and security features shall be incorporated into the design of the project. The Security Plan shall be submitted to the Police Chief and Director of Community Development for review and approval. The Security Plan shall include but not be limited to, security lighting.
18. The applicant shall make every effort to provide shower facilities for use by the office tenants. The facilities shall be shown on the plans and installed prior to the issuance of a Certificate of Occupancy.
19. The applicant is required to eliminate any Congestion Management Plan (CMP) debits created by the project prior to the issuance of a Building Permit for the Commercial buildings.
20. All tenants in the project are encouraged to join the Downtown Business Association.

Public Works

21. The plans shall be checked and stamped for approval by the Public Works Department before the building permit is issued. Project must comply with all Public Works requirements. All Public Works notes and corrections must be printed on the plan and all requirements must be completed per the approved plans prior to the issuance of a building final.
22. The new trash enclosure(s) shall meet all Public Works requirements. Trash must be picked up by a refuse company as often as necessary to ensure that the trash enclosure has adequate space to

accommodate the needs of the entire site. No trash storage/disposal shall be placed in the public right-of-way on Manhattan Beach Boulevard, Morningside Drive, 13th Street or Valley Drive.

23. No outside cleaning of kitchen floor mats or other items will be permitted on the site. All kitchen floor mats and other items shall be cleaned in such a manner that the run-off wastewater drains only to a private sewer drain on the premises.
24. There shall be no discharge of construction wastewater, building materials, debris, or sediment from the site.

Land Use

25. The following land uses and maximum square footages, as defined and approved by the DDA/Ground Lease, and shall allowed:
 - A) Retail Sales and services, including food service uses, 20,000 square feet total maximum, including:
 - a) Retail sales;
 - b) Personal Services;
 - c) Retail/specialty food service uses that are non-destination type establishments such as a bakery, tea salon, coffee house, ice cream shop, yogurt, candy, cookies, juices, and other similar limited specialty food items. Each business is limited to a maximum of 300 square feet of outdoor seating area, including table, chairs and benches, within the Town Square and Public Areas-; and,
 - d) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
 - B) Eating and Drinking Establishments (restaurants), two (2) total maximum, 8,000 square feet total maximum, (including 6,400 square feet maximum dining/seating area regardless of whether located indoors or outdoors).
 - C) Offices, however no offices shall be permitted on the first floor, and Personal Services, 17,500 square feet total maximum, including:
 - a) Offices, Business and Professional;
 - b) Personal Services; and,
 - c) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
 - D) Visitor Accommodations (Bed and Breakfast Inn), 35 to 40 rooms, 26,000 square feet total maximum.
26. Uses identified as conditionally permitted (use permit required) in the underlying zoning district (CD) shall require an amendment to the Master Use Permit at a duly noticed public hearing, unless otherwise permitted in this Resolution.
27. There shall be no drive-through service allowed in conjunction with any Eating and Drinking Establishment (restaurant) or any other use.
28. The Inn may provide wedding, party, and other special event services in their Courtyard, Meeting Room, and Living Room, as a secondary service to the primary Inn use. These types of events are limited to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday. Events are limited to a maximum of 60 people, or whatever the maximum occupancy is as determined by the Building or Fire Code limits, whichever is less. The Director of Community Development may approve Temporary Use Permits for events which exceed 60 people, not to exceed the maximum occupancy as allowed by the Building or Fire Code limits. Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The availability of the Inn for special events shall not be marketed as the primary use.

29. The hours of operation for the site shall be permitted as follows:
- Restaurant, food service, retail and personal service: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday.
 - Offices: Up to 24 hours
 - Town Square and Public Areas: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, seasonal, depending on weather.
30. The second floor roof deck with the jacuzzi at the Inn shall be redesigned. The floor level of the roof deck may not exceed 21 feet in height, and the deck area must be properly screened. The deck area may only be open for use from 6:00 am to 10:00 pm, seven days per week
31. Any outdoor uses in the Town Square and Public Areas shall meet all access and safety requirements of the Uniform Building and Fire Codes and any other similar safety regulations. Retail and food service carts or kiosks may be allowed subject to review and approval of the City Manager. Standard liability insurance naming the City as additionally insured shall be provided and subject to approval of the Director of Community Development. Insurance shall meet approval of the City's Risk Manager and shall be as set forth in the DDA/Ground Lease (currently a minimum \$3 million insurance endorsement). Tenants with said outdoor uses shall be responsible for maintaining the area clean and free of trash and debris.
32. A restroom shall be available to the public at all times when the non-office uses are open to the public. Adequate signage to direct the public to the restroom(s) shall be provided throughout the Town Square and public areas, subject to review and approval of the Director of Community Development. The tenant or building owner, not the City, shall be responsible for maintaining and securing the restroom(s).

Design Review

33. The applicant shall submit plans, material boards, color samples, renderings, and other visual displays for Design Review to the Planning Commission at a noticed public hearing prior to issuance of building permits for the commercial buildings. The general location of the building footprints, as shown on the plans approved by the Planning Commission on July 10, 2002, are approved with this Master Use Permit and Coastal Development Permit and are not subject to Design Review. The plans shall address the following design issues and details:
- Facades/elevations
 - Colors, textures, and materials
 - Landscaping, lighting, signage, and public art
 - Gateway treatment
 - Town Square, 13th Street Garden and Public areas
 - Civic Center linkage, relationship and compatibility
 - Streetscape design- pavement treatment, sidewalks, pedestrian crosswalks, street furniture
 - Pedestrian orientation
 - Incorporation of the Metlox sign
- The plans and details shall address linkage to the Downtown and the Civic Center, pedestrian orientation, the Downtown Design Guidelines, the City's vision for the site, access from Morningside Drive near 12th Street (12th Walk), and other design details of the project. The possibility of limited 3rd story rooms for the Inn will be considered.
34. A sign program in accordance with the requirements of the MBMC shall be submitted for review and approval of the Director of Community Development. Signage shall be consistent with the Downtown Design Guidelines and the conceptual plans submitted for Design Review. Signs shall be installed per the approved plans prior the building permit final.
35. An outdoor lighting program shall be submitted for review and approval of the Director of Community Development. Outdoor lighting shall be shielded and meet all other requirements of the MBMC and shall be consistent with the plans submitted for Design Review. Lighting shall be installed per the approved plans prior the building permit final.

36. A site landscaping plan, utilizing drought tolerant plants to the extent feasible, shall be submitted for review and approval. The landscaping shall be in compliance with the Downtown Design Guidelines and the requirements of the MBMC. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area. This plan shall be reviewed and approved by the Public Works and Community Development Departments. Landscaping shall be installed per the approved plans prior to the building permit final.
37. A low pressure or drip irrigation system shall be installed in landscaped areas. Details of the irrigation system shall be noted on the landscape plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments. Irrigation shall be installed per the approved plans prior to the building permit final.

Alcohol

38. The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation. The Inn may provide beer and wine service for its guests only, and may also provide full liquor self-service in room "mini-bars". 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.
39. Restaurant uses, including the service of alcoholic beverages, shall be limited in their operation to the hours between 6:00 a.m. to 11:00 pm, Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday.

Entertainment

40. 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. Any live entertainment proposed in conjunction with any use (with exception of background music, television and no more than 3 games or amusements per business establishment) shall require a Class I annual Entertainment Permit consistent with the provision of Section 4.20.050 of the Manhattan Beach Municipal Code. The Entertainment Permit shall be submitted to the Director of Community Development for review and approval, with input from the Police and Fire Departments. Appropriate conditions shall be placed on the Permit to minimize potential negative impacts. These conditions shall include, but not be limited to, hours, size and location of performance or dance area, size of band and number of performers, numbers of performance days per week, type and location of amplification, speakers and soundproofing, and volume of amplification. The Permit will be reviewed annually to determine if it is appropriate to renew the permit, deny the permit, or modify the conditions of approval.

Procedural

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 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 and Coastal Development Permit shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
46. Review. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
47. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
48. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
49. Assignment. Pursuant to Section A.96.220 of the City's certified Local Coastal Program (Implementation Program), the Coastal Development Permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development.
50. 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.

Mitigation Measures (CEQA)

The following Mitigation Measures as identified in the EIR, and as discussed within Resolution No. 5769 adopted July 16, 2002, determining compliance with CEQA, are applicable to the Metlox project.

51. AESTHETICS/VIEWS

The project shall be developed in conformance with the following City of Manhattan Beach Downtown Design Guidelines:

- A. Where feasible, incorporate landscaped areas into new development and existing development. Such landscaped areas could utilize window boxes and similar landscape amenities. Landscaping should be designed to enhance and accentuate the architecture of the development.
- B. Signs should be designed at a scale appropriate to the desired village character of downtown. The size and location of signs should be appropriate to the specific business. Pre-packaged "corporate" signs should be modified to a scale and location appropriate to the desired village character of downtown Manhattan Beach. Signs should not block, or obliterate, design details of the building upon which they are placed. Pedestrian oriented signage is encouraged. Such signs may be located on entry awnings, directly above business entrances, and "hanging signs" located adjacent to entrances.
- C. Low level ambient night lighting shall be incorporated into the site plans to minimize the effects of light and glare on adjacent properties.

52. Air Quality

- A. The construction area and vicinity (500-foot radius) shall be swept and watered at least twice daily.
- B. Site-wetting shall occur often enough to maintain a 10 percent surface soil moisture content throughout all site grading and excavation activity.
- C. All haul trucks shall either be covered or maintained with two feet of free board.
- D. All haul trucks shall have a capacity of no less than 14 cubic yards.
- E. All unpaved parking or staging areas shall be watered at least four times daily.
- F. Site access points shall be swept/washed within thirty minutes of visible dirt deposition.
- G. On-site stockpiles of debris, dirt, or rusty material shall be covered or watered at least twice daily.
- H. Operations on any unpaved surfaces shall be suspended when winds exceed 25 mph.
- I. Car-pooling for construction workers shall be encouraged.

53. PUBLIC SAFETY

Although no significant impacts upon public safety (police services) have been identified, the following mitigation measures shall be implemented to further reduce the risk to public safety.

- A. Prior to the issuance of building permits, project site plans should be subject to review by the Manhattan Beach Police Department and Manhattan Beach Fire Department. All recommendations made by the Manhattan Beach Police Department and Manhattan Beach Fire Department relative to public safety (e.g. emergency access) should be incorporated into the project prior to project completion.
- B. Prior to the approval of the final site plan and issuance of each building permit, plans shall be submitted to the Manhattan Beach Police Department for review and approval for the purpose of incorporating safety measures in the project design, including the concept of crime prevention through environmental design (i.e., building design, circulation, site planning, and lighting of parking structure and parking areas). Design considerations should include an evaluation of electronic surveillance systems, emergency call boxes and lighting systems in addition to architectural elements that allow direct vertical and horizontal views outside of the structure.
- C. The provision of an on-site valet attendant and/or patrol by private security officers during operation of the project shall be considered at peak parking demand times, as needed. This mitigation measure shall be incorporated into the conditions of project approval (i.e., Master Land Use Permit or Development Agreement) at the discretion of the City Council.

54. RISK OF UPSET

Potential impacts associated with the release of potentially hazardous substances during demolition activities can be mitigated to a level of insignificance by the following mitigation measure:

- A. Comprehensive surveys for asbestos containing materials (ACMs), lead based paint, and Poly Chlorinated Biphenyls (PCBs) shall be conducted by a registered environmental assessor for each existing on-site structure to be demolished or renovated under the proposed project. ACMs, lead based paint, or PCBs found in any structures shall be stabilized and/or removed and disposed of in accordance with applicable laws and regulations including, but not limited to, SCAQMD Rule 1403 and Cal OSHA requirements.

- B. If during construction of the project, soil contamination is suspected, construction in the area should stop and appropriate Health and Safety procedures should be implemented. The Department of Toxic Substances Control (DTSC) Voluntary Cleanup Program (VCP) should be contacted at (818) 551-2866 to provide the appropriate regulatory oversight.

55. TRANSPORTATION AND CIRCULATION

REQUIRED MITIGATION MEASURES

The following traffic-related mitigation measures are required to mitigate potentially significant project-related traffic impacts:

- A. Prior to any construction activities, a Construction Plan, which shall include phasing of construction of the project, shall be submitted for review and approval to the City of Manhattan Beach Public Works Department and Community Development Department. Construction Plans shall address parking availability and minimize the loss of parking for existing on-site Civic Center operations that will continue to operate throughout the construction period, as well as provide parking for Civic Center visitors and construction workers. To minimize potential adverse impacts upon the Downtown Commercial District construction workers shall not be permitted to park within in the adjacent public parking structures or street parking spaces. The parking plans shall provide adequate on-site parking areas for construction workers and/or consider providing additional construction parking at off-site parking lot locations and providing bussing or car-pool services to the construction site. The proposed construction plan shall designate appropriate haul routes into and out of the project area. Truck staging areas shall not be permitted on residential roadways or adjacent to any school site.
- B. Manhattan Beach Blvd. & Sepulveda Blvd. -Contribute to the installation of dual left-turn lanes in the northbound and eastbound directions. A fair-share contribution will be required. The City is currently actively pursuing implementation of this Mitigation Measure. These projects are identified in the City's 2004-2005 Capital Improvement Program (CIP). The City is currently in the process of having engineering studies conducted for the design of the dual left-turn lanes. A Grant application will be submitted to the Metropolitan Transportation Authority (MTA) in their Call- for- Projects after completion of the engineering study.
- C. Highland Avenue & 13th Street -Install a two-phase signal at this intersection if warranted based on actual traffic counts taken after the project is developed. The implementation of peak-hour southbound left-turn restrictions at this intersection is another option to mitigate project impacts as this restriction would improve traffic flow through this intersection, as it would reduce northbound through and southbound left-turn conflicts, and allow for the free flow of southbound traffic. In addition, the conversion of 13th Street to a one-way eastbound scheme is another option.
- D. Manhattan Beach Blvd. & Valley Drive/Ardmore Ave. -Install a dual southbound left-turn lane at this intersection at such a time that two left turn lanes are warranted based on actual traffic counts.
- E. The City Traffic Engineer shall conduct secondary "post-project" traffic assessments at the intersections of Highland Avenue & 13th Street, and Manhattan Beach Boulevard & Valley Drive/Ardmore Avenue to determine the actual traffic impacts of the proposed project. Should the results of this assessment verify significant impacts are realized, the mitigation measures recommended in the Draft EIR, or measures of equivalent effectiveness shall be implemented.
- F. An employee parking program shall be required for the Metlox commercial establishments to alleviate the parking demands within the Downtown Commercial District. Potential mitigation

options may include satellite parking programs and/or providing tandem parking stalls designated for employees only.

RECOMMENDED MITIGATION MEASURES

Although the proposed project will meet the shared parking demand anticipated for the planned development, the following parking mitigation measures are recommended to further increase parking availability on the project site, reduce traffic congestion, and to promote shared parking within the Downtown Commercial District:

- G. Valet parking operations should be considered during peak demand times, as needed. Valet parking operations should utilize tandem parking methods within the parking garage(s) to increase parking availability for the project site.

56. HYDROLOGY/WATER QUALITY

The following mitigation measures would ensure water quality impacts would be less than significant:

- A. The project shall comply with the requirements of the National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharge. Such compliance shall include submittal of a drainage plan to the City of Manhattan Beach Department of Public Works in accordance with the minimum applicable requirements set forth in the Los Angeles County Standard Urban Stormwater Mitigation Plan (SUSMP).
- B. Design criteria for the project should, to the extent feasible, minimize direct runoff to the adjacent streets and alleys by directing runoff from roofs and impervious surfaces to landscaped areas. In addition to reducing runoff volumes, due to infiltration into the soil, landscaped areas may also filter some pollutants from stormwater, such as particulate matter and sediment.
- C. Commercial trash enclosures must be covered so that rainwater cannot enter the enclosure and the trash enclosure must be connected to the sanitary sewer system.

57. NOISE

The following mitigation measures are recommended to reduce noise impacts during the construction phases of the proposed project:

- A. Use noise control devices, such as equipment mufflers, enclosures, and barriers.
- B. Erect a temporary sound barrier of no less than six feet in height around the construction site perimeter before commencement of construction activity. This barrier shall remain in place throughout the construction period.
- C. Stage construction operations as far from noise sensitive uses as possible.
- D. Avoid residential areas when planning haul truck routes.
- E. Maintain all sound-reducing devices and restrictions throughout the construction period.
- F. When feasible, replace noisy equipment with quieter equipment (for example, a vibratory pile driver instead of a conventional pile driver and rubber-tired equipment rather than track equipment).
- G. When feasible, change the timing and/or sequence of the noisiest construction operations to avoid sensitive times of the day.

- H. Adjacent residents shall be given regular notification of major construction activities and their duration.
- I. A sign, legible at a distance of 50 feet, shall be posted on the construction site identifying a telephone number where residents can inquire about the construction process and register complaints.
- J. An annual City permit in accordance with Chapter 4.20 of the MBMC shall be required prior to the installation/setup of any temporary, or permanent, PA or sound system.
- K. The maximum allowable sound level shall be in conformance with Chapter 5.48 of the MBMC.

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.

SECTION 4. This resolution shall take effect immediately.

SECTION 5. The City Clerk shall certify to the adoption of this resolution; enter it into the original records of the City and thenceforth and thereafter the same shall be in full force and effect.

SECTION 6. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

PASSED, APPROVED AND ADOPTED this 16th day of July 2002.

Ayes:
 Noes:
 Absent:
 Abstain:

 Mayor, City of Manhattan Beach, California

ATTEST:

 City Clerk

RESOLUTION NO. PC 05-08

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 ALCOHOL SALES AND SPECIAL EVENTS AT THE SHADE HOTEL, METLOX SITE, 1221 NORTH VALLEY DRIVE (MANHATTAN INN OPERATION 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 Operation Company, LLC is seeking approval of an Amendment to a Master Use Permit, to allow modifications to the previously approved alcohol sales and special events at the Shade Hotel, Metlox site, 1221 north Valley Drive in the City of Manhattan Beach.
- 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 and therefore they will review the project and make a determine if an amendment to the Permit will be required to be processed.
- D. The applicant is Manhattan Inn Operation Company, LLC and the property owner is the City of Manhattan Beach.
- E. 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
- F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of May 25, 2005.

The public hearing was advertised pursuant to applicable law and testimony was invited and received.

- G. 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.
- H. 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.
- I. The General Plan designation for the property is Downtown Commercial.
- J. The proposed project is a modification of the previously approved alcohol sales for the Shade Hotel to provide high quality service to their customers consistent with the business plan for the four-star hotel, as well as to provide consistency with the State Alcoholic Beverage Control (ABC) regulations. The previous approval (Condition No. 38- City Council Resolution No. 5770) allows full liquor in self-service in-room mini-bars and beer and wine throughout the Hotel facility for guests only. The State Alcoholic Beverage Control (ABC) regulations require a full liquor license throughout the Hotel facility (Type 47 license) that is open to the general public and includes the service of food in order to allow the in-room mini-bar license (Type 66 license). There is no ABC license, or series of licenses that would allow beer and wine only for guests, and full liquor for the mini-bars. A portable bar with full liquor (Type 68 license), for special events, is also proposed. Full liquor is proposed throughout the Hotel including the Courtyard, the Living Room which includes the Lobby and Wine Bar, the Porch, the Meeting Room and the rooftop Sun Deck. Alcohol is only allowed to be consumed on the site, it may not be taken off-site for consumption.
- K. The previous approval (Condition No. 28- City Council Resolution No. 5770) also limits special events (weddings, parties, etc.) to 60 people, and the modification requests a maximum of 99 people, without approval of a Temporary Use Permit.
- L. No changes to the previously approved hours of operation are proposed for either the alcohol sales or the special events. Breakfast Service in the Living Room, Porch, and/or Courtyard is proposed from 6:00 AM to 10:00 AM Monday-Friday and 6:00 AM-11:00 AM Saturday and Sunday. The "Wine Bar" is proposed to operate in the evenings from 5:00 PM to 11:00 PM daily, although flexibility for earlier hours based on the needs of the customer is desired. Although the emphasis of the "Wine Bar" will be on providing a wide selection of premium wines, full liquor will be available. Additionally, the Wine Bar will provide a variety of appetizers in order to qualify as an eating establishment as required by the ABC. Mid-day (lunch) food service will not be provided, except for room service.
- M. 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

changes will make the hotel a better, more attractive facility for Manhattan Beach and a more sustainable business for its owners and investors and the city. All services of the hotel will be focused directly on its guests and event clients. All advertising, marketing and promotions will be focused on potential hotel guests and not the general public.

- N. As part of the ABC license application process completed in February 2005 public notices were mailed to the neighbors located within a 500 yard radius of the property, the application sign was posted on the exterior of the property for thirty days, and the application was advertised publicly in the newspaper three times. Not one neighbor or citizen protested the application.
- 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. The Sun Deck is designed to minimize noise and maximize privacy. The Sun Deck will be enclosed by decorative walls on all four sides: the walls stand eight feet to the east and six feet in all others directions.
- P. The ABC has identified the Downtown area of Manhattan Beach as having an "undue concentration" of alcohol licenses, which is typical for South Bay Cities. The criteria that the ABC uses in their calculations and determination of "undue concentration" takes into account all of Los Angeles County, including areas with very little population. This tends to create areas of "undue concentration" of alcohol licenses in areas where there is concentration of people and businesses, such as Downtown and other commercial areas. The Planning Commission makes the findings of public convenience and necessity for the alcohol license as the license for the hotel use is compatible with similar uses that have alcohol licenses, and other Downtown uses and the City Council has reviewed alcohol licenses in the past and has supported alcohol in conjunction with food service and hotel uses.
- Q. 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.
- R. This Resolution, upon its effectiveness, constitutes the Amendment to the Master Use Permit for the subject property. This Resolution only amends Conditions No's 28 and 38 of Resolution No. 5770, all other conditions remain effective and in full force.
- S. Based upon State law, and MBLCP Section A.84.050, 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' of Shade Hotel are 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.
 - 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' of this business property is consistent with the General Plan for the Commercial Downtown designation, because it is merely the granting of additional privileges to an already approved use that will result in no fundamental change of that use. Amending the 'use permit' to comply with ABC regulations and the approval of larger special events 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 boutique hotel. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the city. Additionally, the project is consistent with the following General Plan Goals and Policies:

GOALS AND POLICIES: LAND USE

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

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

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.

- 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 issuance of a certificate of occupancy. The proposed amended 'use permit' for the boutique hotel is consistent with the already approved primary and secondary uses of the facility. The new uses will comply with the provisions and conditions of this title.
- 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 boutique hotel, 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.

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

General Conditions

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the Planning Commission on May 25, 2005, subject to any special conditions set forth below. The layout of the Lobby area, including the sound insulation, and roof deck is subject to further review and approval by the Director of Community Development. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

Land Use

2. (This condition replaces Condition No. 28- City Council Resolution No. 5770) The Inn may provide wedding, party, and other special event services in their Courtyard, Meeting Room, and Living Room, as a secondary service to the primary Inn use. These types of events are limited to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday. Events are limited to a maximum of 99 people, or whatever the maximum occupancy is as determined by the Building or Fire Code limits, whichever is less. The Director of Community Development may approve Temporary Use Permits for events which exceed 99 people, not to exceed the maximum occupancy as allowed by the Building or Fire Code limits. Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The availability of the Inn for special events shall not be marketed as the primary use.

Alcohol

3. (This condition replaces Condition No. 38- City Council Resolution No. 5770) The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation. 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.

New conditions

4. All hotel marketing, advertising, and promotions shall be limited to attracting potential hotel guests and event planners. The Wine Bar (now called "Zinc") and Sun Deck will not be marketed to the general public as separate hospitality attractions.
5. The Wine Bar 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, Porch, and/or Courtyard.
6. Shade Hotel shall not post any drink or food menus, or any drink or food signage outside of the hotel.
7. The Sun Deck shall stop regular alcohol service no later than 9:00 p.m. daily.
8. Alcohol service at events and functions shall stop thirty minutes prior to the hotel closing hours: 10:30 p.m., Sunday – Thursday; 11:30 p.m., Friday and Saturday.

Procedural

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. Review. All provisions of the Master Use Permit Amendment are subject to review by the Community Development Department 6 months after occupancy 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.
15. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
16. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
17. 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 **May 25, 2005**, and that said Resolution was adopted by the following vote:

AYES: Chairman O'Connor, Vice-Chair Savikas, Commissioners Kuch and Simon

NOES: None

ABSTAIN: None

ABSENT: None

RICHARD THOMPSON
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary



MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

1221 N Valley Drive Manhattan Beach, CA 90266

Office Use Only	
Date Submitted:	4/16/09
Received By:	[Signature]
F&G Check Submitted:	-225 (need \$)

Project Address

See Attached

Legal Description

Downtown Commercial

CD

General Plan Designation

Zoning Designation

Area District

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

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

Major Development (Public Hearing required)

Public Hearing Required (due to UP, Var., etc.)

Minor Development (Public Hearing, if requested)

No Public Hearing Required

Submitted Application (check all that apply)

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

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

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

Amount Due: \$ ⁴⁷³⁰ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: _____ Date Paid: _____ Cashier: _____

Applicant(s)/Appellant(s) Information

Manhattan Inn Operating Company, LLC

Name

1221 North Valley Drive Manhattan Beach, CA 90266

Mailing Address

Manhattan Inn Operating Company, LLC (Lessee), Michael Zislis (Manager)

Applicant(s)/Appellant(s) Relationship to Property

Michael Zislis, Manager

+ KATIE KRUFF

310.704.8507 / zislis@aol.com

Contact Person (include relation to applicant/appellant)

Phone number / e-mail

1221 North Valley Drive Manhattan Beach, CA 90266

Address,

[Signature]

310.704.8507

Applicant(s)/Appellant(s) Signature

Phone number

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

See Attached Pages

EXHIBIT D
PC Mtg. 6/24/09

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)


RECEIVED
APR 16 2009
By _____

PAID
C/001-01241036
04-17-2009

OWNER'S AFFIDAVIT

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

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

 - For Manhattan Inn Operating Company, LLC

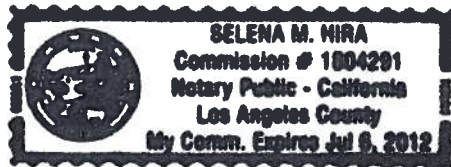
 Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)
 Michael Zislis

Print Name
 1221 North Valley Drive Manhattan Beach, CA 90266

Mailing Address
 310.704.8507

Telephone

Subscribed and sworn to before me, this 15th day of April, 2009
 in and for the County of Los Angeles



State of CA
 Notary Public 

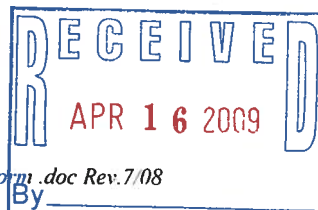
Fee Schedule Summary

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

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

<i>Coastal Development Permit</i>	
Filing Fee (public hearing – no other discretionary approval required):	\$ 4,275 <input type="checkbox"/>
Filing Fee (public hearing – other discretionary approvals required):	\$ 815 <input type="checkbox"/>
Filing Fee (no public hearing required):	\$ 560
<i>Use Permit</i>	
Use Permit Filing Fee:	\$ 5,200 <input type="checkbox"/>
Master Use Permit Filing Fee:	\$ 8,145 <input type="checkbox"/>
Amendment Filing Fee:	\$ 4,730 <input type="checkbox"/>
Master Use Permit Conversion	\$ 4,080 <input type="checkbox"/>
<i>Variance</i>	
Filing Fee:	\$ 4,925 <input type="checkbox"/>
<i>Minor Exception</i>	
Filing Fee (with notice):	\$ 1,095 <input type="checkbox"/>
Filing Fee (without notice):	547.50
<i>Subdivision</i>	
Certificate of Compliance	\$1,505
Final Parcel Map / Final Tract Map	585
Lot Line Adjustment or Merger of Parcels	1,010
Mapping Deposit (paid with Final Map application)	473
Quimby (Parks & Recreation) fee (per unit/lot)	1,817
Tentative Parcel Map (less than 4 lots / units) No Public Hearing	805
Tentative Parcel Map (less than 4 lots / units) Public Hearing	3,180** <input type="checkbox"/>
Tentative Tract Map (more than 4 lots / units)	3,770** <input type="checkbox"/>
<i>Environmental Review (contact Planning Division for applicable fee)</i>	
Environmental Assessment:	\$ 215
Environmental Assessment (if Initial Study is prepared):	\$ 2,210
Fish and Game County Clerk Fee ² :	\$ 50
<input type="checkbox"/> Public Notification Fee applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable.	\$ 65

² Make \$50 check payable to LA County Clerk, (DO NOT PUT DATE ON CHECK)



SHADE/MUP AMENDMENT

WRITTEN DESCRIPTION

Purpose of Application:

Background. Shade Hotel has proven itself as a very valuable addition to the City of Manhattan Beach. The Hotel has established itself as a popular four-star hotel destination, while its Zinc Lounge has been a hit with locals. The attractiveness of our community has been enhanced. The Hotel brings substantial revenue to the City, both in direct taxes (occupancy, sales and property) and by attracting an affluent clientele toward other businesses in the area. The Hotel employs approximately 100 people.

During the three years of the Hotel's operations, the Metlox Plaza has evolved. For example, Deli Boys has given way to Sashi, which attracts a more upscale evening crowd. Based on our experience over this time frame, we believe that various terms in the original Master Use Permit (as applying to the Hotel) should be clarified and fine tuned to be consistent with the Hotel's status as a four star destination and as the anchor for the Metlox Plaza. These clarifications relate principally to hours and to ancillary services (such as food, bar and events). The changes will put Shade Hotel on a level playing field not only with other luxury hotels, but also with other hospitality businesses in the City.

Clarification of Hours. Paragraph 29 of the original Master Use Permit for the Metlox Plaza established general hours for operation of the Metlox Project. Those are: 6:00 a.m. to 11:00 p.m. Sunday through Thursday, and 6:00 a.m. to 12:00 a.m. (mid-night) Friday and Saturday (with no specific exception for special occasions such as New Year's Eve).

Paragraph 29 specifically states that those hours apply to the "Town Square and Public Areas" and also to "restaurant, food service, retail and personal services." No specific mention was made of the Hotel. PC Res. 05-08 applied similar hours to the Hotel (at least for special events), but imposed several more restrictive conditions (such as calling for bar service to stop 30 minutes before closing and for the Sky Deck to close at 10:00 p.m. with bar service ending at 9:00 p.m.).

These restrictions are contrary to the general trend of expanding use of the Metlox Plaza. For example, by an amendment to the Master Use Permit, the hours for Petros Restaurant are now extended to 1:00 a.m. on Friday and Saturday nights and 12:00 mid-night on other nights. The restrictions are not consistent with Shade Hotel's importance to the Metlox Plaza and to the City in general.

The principal purpose for the proposed amendment is to establish that the Hotel's hours should be similar to those of other hospitality businesses in the City.

Sound Issues. The staff and owners of Shade Hotel take pride in the Hotel's good relations to the community. Shade has incurred considerable expense in designing and

installing various sound barriers including, for example, two sound barriers on the East Side of the Hotel's Terrace. The Hotel will install additional sound barriers on the East Side of the Sky Deck

Manhattan Inn Operating Co, LLC requests a glass door structure designed to separate the courtyard/guest room area of the hotel from the Zinc Lounge. A permanent door will be installed near room 101 (same as existing door in front of room 116) and a glass "accordion" wall will be installed from room 116 to room 101. This accordion wall will remain open at all times except during certain events and busy nights in Zinc Lounge. The purpose of this wall and door is to prevent lounge patrons from loitering in the courtyard and disrupting hotel guests. Please see attached plans.

The Hotel provides a security team to maintain tight controls and decorum on all evenings when a significant number of guests is expected. The operations of the valets are modified at late hours (at some inconvenience for the Hotel and its guests) in order to limit noises on the East side of the Hotel. As a result of these steps, we believe that Hotel activities are less of a noise and security concern than surrounding areas within and outside the Metlox Plaza.

Such steps cannot completely satisfy every person all the time. However, it is clear that the response of the Community to all of the Hotel's activities has been overwhelmingly positive.

Other Modifications. The Hotel as ultimately approved and built differs in some details from what was contemplated when the Master Use Permit was first adopted (and when PC Resolution 05-08 was approved). Some minor modifications to language will clarify how the MUP applies to Hotel activities in a way that allows the Hotel to maintain its four-star status. For example, the MUP doesn't literally specify that the Hotel may serve lunch on its Terrace.

By preserving the Hotel's stature, changes of this sort will also help to support the Hotel's revenue (and thus the financial benefits to the City) against economic pressures arising from the current economic slowdown.

Proposed Findings.

Based on the foregoing, it is proposed that the Commission find as follows:

1. The proposed location of the use is in accord with the objectives of Title 10 of the Manhattan Beach Municipal Code and the purposes of the district in which the site is located;
2. The proposed location of the use and the purposed 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 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;

3. The proposed use will comply with the provisions of Title 10 of the Manhattan Beach Municipal Code, including any specific condition required for the proposed use in the district in which it would be located; and
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 mitigate.

Group Entertainment Permit. The MUP contemplates that certain events at the Hotel will require a Group Entertainment Permit. The Permit currently applying to the Hotel contains various restrictions that are more restrictive than the MUP seems inconsistent with the Hotel's intended stature. These matters will be addressed when the Group Entertainment permit is renewed.

4/16/2009

Updated

Metlox Plaza and Associated Businesses
Mark Up of Existing Master Use Permit Terms

Land Use

25. The following land uses and maximum square footages, as defined and approved by the DDA/Ground Lease, ~~and shall be~~ allowed
- A) Retail Sales and service [etc., no change]
 - B) *“Eating and Drinking Establishment (restaurants), two (2) total maximum, 8,000 square feet total maximum (including 6,400 square feet maximum dining/seating area regardless of whether located indoors or outdoors).*
 - C) *Offices [etc., no change]*
 - D) *“Visitor Accommodations (**Boutique Hotel** ~~Bed and Breakfast Inn~~), 35 to 40 rooms, **31,000** ~~26,000~~ square feet total maximum.*

28. *The ~~Hotel Inn~~ may provide wedding, party, and other special event services in its ~~their~~ **Lounge, Courtyard, Terrace, Meeting Room, and rooftop deck Living Room, as a secondary service to the primary Inn use in addition to providing hotel rooms for its guests. These types of events are limited to the hours specified in Paragraph 29 below. 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 pm (mid-night) Friday and Saturday. Events are limited to a maximum of 150 ~~99~~ people, or whatever the maximum occupancy is as determined by the Building or Fire Code limits, whichever is less. The Director of Community Development may approve Temporary Use Permits for events which exceed 150 ~~99~~ people, not to exceed the maximum occupancy as allowed by the Building or Fire Code limits. Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. ~~The availability of the Inn for special events shall not be marketed as the primary use.~~***

(note: the above terms already reflect an amendment made by PC Res. 05-08)

29. *The hours of operation for the site shall be permitted as follows:*

- * *Restaurant, food service, retail and personal service: Up to 6:00 am to 11:00 p.m Sunday through Thursday, and 6:00am to 12:00am (mid-night) Friday and Saturday.*
- * *Offices: Up to 24 hours.*
- * *Town Square and Public Areas: Up to 6:00 am to 11:00 p.m. Sunday*

through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, seasonal, depending on weather.

* *The Hotel Lounge, Terrace, Courtyard and Skydeck: Up to 6:00 a.m. to 12 a.m., Sunday through Thursday and 6:00 a.m. to 1:00 a.m. Friday and Saturday.*

For purposes of this Paragraph, nights before Holidays shall be treated the same as a Friday or Saturday. Closing on New Years Eve shall be 1:00 a.m.

30. *The second floor roof deck with the relaxation pool jacuzzi at the Hotel Inn shall be has been redesigned. The floor level of the roof deck may not exceed 21 feet in height, and the deck area must be properly screened. —The deck area may only be open for use from 6:00 am to 10:00 pm, seven days per week.*

Alcohol

38. *The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation. 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 shall be consistent with the hours specified in Paragraph 29 the project description. Permitted food service at the Hotel shall, which is generally include breakfast, lunch, evening appetizers and light “small plates.” and Dinner may be served at for special events and as room service. The Sale of alcoholic beverages for consumption off-premise is not approved with this Master Use Permit*

(the above terms reflect paragraph 38 as previously amended by PR Res. 05-08)

2 *Restaurant uses, including the service of alcoholic beverages, shall be limited in their operation to the hours specified in paragraph 29. between 6:00 a.m. to 11:00 pm, Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday. The rules specified in this Paragraph 39 shall also apply to the Hotel lounge, terrace, and rooftop deck.*

Entertainment

40. *Dancing and amplified live music is prohibited within the business-office and retail establishments. Non-amplified live music or entertainment, limited to background-type music, with a maximum of 2 entertainers is permitted. Any live entertainment proposed in conjunction with any use (with the exception of background music, television and no more than 3 games or amusements per business establishment) shall require a Class 1 annual Entertainment Permit consistent with the provision of Section 4.20.050 of the Manhattan Beach Municipal code. . . . Appropriate*

conditions shall be placed on the Permit to minimize potential negative impacts (consistent with the nature and customary use of the facility involved). These conditions shall include, but not be limited to, hours, size and location of performance or dance area, size of band and number of performers, numbers of performance days per week, type and location of amplification, speakers and soundproofing, and volume of amplification. The Permit will be reviewed annually to determine if it is appropriate to renew the permit, deny the permit, or modify the conditions of approval.

New Conditions as Set Forth Under PC Resolution No. 05-08:

1 The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the Planning Commission on May 25, 2005, subject to any special conditions set forth below. The layout of the Lobby area, including the sound insulation, and the roof deck is subject to further review and approval by the Director of Community Development. Any substantial deviation from the approved plans and project description must be reviewed and approved by the planning commission.

2 [See Paragraph 28 above]

3 [See Paragraph 38 above]

4 All hotel marketing, advertising, and promotions shall be limited to attracting potential hotel guests and event planners. ~~The Wine Bar (now called "Zinc") and Sun Deck will not be marketed to the general public as separate hospitality attractions.~~

5 Except for events and special occasions, ~~the The Zinc Lounge Wine Bar~~ shall limit its food menu to appetizers or "small plates" (or "tapas"), to qualify as a

3

~~"bonafide eating place" as required by the ABC Type 47 license. The Lounge and Terrace Wine Bar shall provide food service but shall not operate as a full scale "restaurant." Breakfast and lunch may be served daily in the Lounge, Terrace Living Room, Poreh, Skydeck, and/or Courtyard.~~

1 Shade Hotel shall not post any drink or food menus, or any drink or food signage outside of the hotel.

2 The Sun Deck shall stop regular alcohol service no later than 9:00 p.m. daily.

6 & Except for events and special occasions, Alcohol service ~~at events and functions shall stop thirty fifteen minutes prior to the applicable closing time. hotel closing hours: 10:30 p.m., Sunday Thursday; 11:30 p.m., Friday and Saturday.~~



ENVIRONMENTAL INFORMATION FORM

(to be completed by applicant)

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Date Filed: 4/15/09

APPLICANT INFORMATION

Name: Manhattan Inn Operating Co.

Contact Person: Michael Zislis

Address: 1221 N. Valley Drive

Address: 1221 N. Valley Drive

Phone number: 310.546.4995

Phone number: 310.704.8507

Relationship to property: Tenant

Association to applicant: Manager

PROJECT LOCATION AND LAND USE

Project Address: 1221 North Valley Drive Manhattan Beach, CA 90266

Assessor's Parcel Number: 8940-211-011

Legal Description: See Attached

Area District, Zoning, General Plan Designation: Commercial Downtown

Surrounding Land Uses:

North Public

West Downtown Commercial

South Downtown Commercial

East Open Space

Existing Land Use: Commercial Hotel.

PROJECT DESCRIPTION

Type of Project: Commercial Residential Other

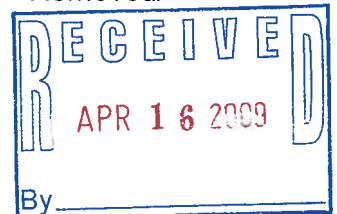
If Residential, indicate type of development (i.e.; single family, apartment, condominium, etc.) and number of units: N/A

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

See Attached Description.

If use is other than above, provide detailed operational characteristics and anticipated intensity of the development: See Attached Description.

Removed/



	<u>Existing</u>	<u>Proposed</u>	<u>Required</u>	<u>Demolished</u>
Project Site Area:	_____	_____	_____	_____
Building Floor Area:	_____	_____	_____	_____
Height of Structure(s)	_____	_____	_____	_____
Number of Floors/Stories:	_____	_____	_____	_____
Percent Lot Coverage:	_____	_____	_____	_____
Off-Street Parking:	_____	_____	_____	_____
Vehicle Loading Space:	_____	_____	_____	_____
Open Space/Landscaping:	_____	_____	_____	_____

Proposed Grading:
 Cut _____ Fill _____ Balance _____ Imported _____ Exported _____

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

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

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

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

Signature: _____ Prepared For: _____

Date Prepared: 4/15/09

Revised 7/97

Laurie B. Jester

From: Scott Murch [smurch@wcb-law.com]
Sent: Tuesday, June 16, 2009 10:20 AM
To: Portia P. Cohen; Mitch Ward; Richard Montgomery; Nick Tell; Wayne Powell
Cc: Laurie B. Jester; Cho, Teresa; Scott Murch
Subject: Opposition to modification to master use permit for Shade Hotel

Dear Council Members,

Please see the attached letter to Laurie Jester, Planning Manager, opposing the proposed modification to Shade Hotel's master use permit. My wife and I, as well as our neighbors, strongly oppose increasing the hours and capacity of that hotel. It already generates too much noise and too many other problems for nearby residents. Thank you for your anticipated attention to this matter.

Scott K. Murch
WAXLER CARNER BRODSKY LLP
1960 Grand Avenue, Suite 1210
El Segundo, CA 90245
(310) 416-1300 (main)
(310) 416-1306 (direct)
(310) 416-1310 (fax)
smurch@wcb-law.com (email)

SCOTT MURCH, Esq. and TERESA CHO, Esq.
528 12th Street
Manhattan Beach, CA 90266

June 13, 2009

Via Email

Laurie B. Jester, Planning Manager
Manhattan Beach City Hall
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: Shade Hotel
Proposed Modification of Master Use Permit

Dear Laurie,

We write to express our vehement opposition to the proposed modification of Shade Hotel's master use permit. We enclose comments from our neighbors on this issue.

Shade Hotel already creates substantial noise pollution, particularly during the summer months. Increasing the occupancy by 50 percent and extending the hours into the wee hours of the morning will only compound the problems created by this hotel.

Shade Hotel is, primarily, a singles bar and attracts a loud, boisterous and frequently drunk crowd. Although we live two blocks away, we hear them many weekend nights partying at the hotel. Additionally, patrons of the hotel frequently park on our street, and we often hear their loud, drunken voices as they return to their cars late at night after visiting the hotel. We also find used alcoholic beverage containers in our yard that have been left by these patrons.

We have even telephoned the Manhattan Beach Police Department to complain about the noise coming from Shade Hotel. That call was made while the hotel was hosting a rooftop party. The DJ or host at the party was using the PA system at a high volume, and the party noise and DJ's comments over the system could be heard for at least a quarter mile away. There was at least one police car parked on the 600 block of our street monitoring the noise. All of this occurred after 10 p.m. – the current end time for rooftop usage. The noise prevented our young children from falling asleep.

We are the parents of two young children, ages 4 and 5. All told, there are eight children age 6 or younger on the 500 block of 12th Street. There are many families with young children both up the block and on neighboring streets to the north. These kids need sleep, and noise from Shade Hotel and its patrons frequently disturbs their sleep. Our kids have school every weekday. We do not wish to have their well-being and progress impeded by

sleep problems. The proposed modification to Shade Hotel's master use permit will undoubtedly increase these incidents.

Finally, it is worth noting that Shade Hotel is not what it was originally represented to Manhattan Beach residents to be when the Metlox property was in the planning and development stage. We were told that the hotel would be a small bed and breakfast. Shade Hotel is definitely not that. If residents had known then what they now know about the hotel, few, if any, would have supported the development plan.

We will be closely monitoring the Planning Commission's decision. We ask that we be kept informed of any proceedings on this matter, as we wish to voice our views before any decisions are made about this civil nuisance.

Very truly yours,



SCOTT K. MURCH

TERESA CHO

Cc: James and Anna O'Brien, 529 12th St.
Joe Burghardt and Aparna Voleti, 525 12th St.
William and Mary Allison, 521 12th St.
Joe and Debbie Taylor, 520 12th St.
Maria Reinhardt, 1145 Fisher
Andrea Newmark, 524 12th St.

COMMENTS REGARDING PROPOSED MODIFICATION
TO SHADE HOTEL USE PERMIT

I agree with the comments set forth in Scott Murch and Teresa Cho's letter above
and add comments below.

Name STEVE & JINX WIBLE
Address 1212 N. ARDMORE MANHATTAN BEACH
Comments: I WOULD LIKE TO REDUCE THE EXISTING / HOURS!

Name Debbie Taylor & Joe Taylor
Address 520 12th Street MB
Comments: Somehow the image of the bed & breakfast was never created.

Name Jim & Anna O'Brien
Address 529 12th St
Comments: It's odd enough we have to deal w/ parking issues.

Name John [Signature]
Address 1200 FISHER AVE
Comments:

Name William & Sawanna Krizman
Address 613 12th ST.
Comments: Manhattan Beach, CA.
Expand the hours 2/3! I vote to reduce the hours.

Name MARLETTA + PETER MANFIELD
Address 629 12th ST
Comments: MANHATTAN BEACH, CA 90266

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

TO: See distribution below
FROM: Angela Soo, Executive Secretary
DATE: April 20, 2009
SUBJECT: Review Request for Proposed Project at:

**1221 N. VALLEY DRIVE (SHADE HOTEL)
Clarification/modification of exstg. Use Permit**

The subject application has been submitted to the Planning Division. Please review the attached material(s) and provide specific comments and/or conditions you recommend to be incorporated into the draft Resolution for the project. Conditions should be primarily those which are not otherwise addressed by a City Ordinance.

If no response is received by **APRIL 30**, we will conclude there are no conditions from your department.

Comments/Conditions (attach additional sheets as necessary):

FIRE DEPT.

- ADHERENCE TO OCCUPANCY LEVEL AS DETERMINED BY BUILDING & SAFETY DEPT.
- EXCEPTIONS TO THIS THAT EXCEED OCC. LEVEL COULD REQUIRE FIRE SAFETY OFFICER STANDBY, AT CITY PSO RATES PER ORD. FEE SCHEDULE.

Distribution (circle all that apply):

4/24/09 JLS.

Yes / No Building Dept
Yes / No Fire Dept
Yes / No Public Works (Roy)
Yes / No Engineering (Mike)
Yes / No Waste Mgmt (Anna)

Yes / No City Attorney
Yes / No Police Dept.
___ Traffic
___ Detectives
___ Crime Prevention

EXHIBIT F
PC Mtg. 6/24/09

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

TO: See distribution below
FROM: Angela Soo, Executive Secretary
DATE: April 20, 2009
SUBJECT: Review Request for Proposed Project at:

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If no response is received by **APRIL 30**, we will conclude there are no conditions from your department.

Comments/Conditions (attach additional sheets as necessary):

① ENSURE NO USE change or OCCUPANCY change FOR AREAS where operation hours are requested to be expanded.

John K... [Signature]

Distribution (circle all that apply):

Yes / No Building Dept
Yes / No Fire Dept
Yes / No Public Works (Roy)
Yes / No Engineering (Mike)
Yes / No Waste Mgmt (Anna)

Yes / No City Attorney
Yes / No Police Dept.
 Traffic
 Detectives
 Crime Prevention

City of Manhattan Beach
Department of Public Works
Memorandum

Pub Works
JAA
SP
RJM

To: Angela Soo, Planning Division Secretary
Through: Jim Arndt, Director of Public Works
From: Steve Finton, City Engineer
Lee Morlet, Public Works Inspector (310) 802-5305
Roy Murphy, Public Works Inspector (310) 802-5306
3621 Bell Avenue, Manhattan Beach CA 90266
Subject: 1221 N. Valley Drive (Shade Hotel)
Date: April 30, 2009

Entered on
Page or
Sheet #

ALL THE PUBLIC WORKS NOTES AND CORRECTIONS MUST BE PRINTED ON THE PLAN. NO EXCEPTIONS.

This property was inspected by Public Works staff on April 30, 2009 and the following items are required and must be added to the plans. Indicate location of correction on blanks at left.

1. The Contractor must show to the City of Manhattan Beach's Building Department and to the Public Work Department that the grease interceptor is at the proper capacity for any new restaurants in the Shade Hotel and a maintenance program with regular inspections and removal of grease buildup.
2. The trash area must be rereviewed by Waste Management and Anna Luke regarding the possible impact of a new restaurant in the Shade Hotel.
3. Commercial establishments are required, by municipal code 5.24.030 (C)(2) to have a sufficient refuse and recycling storage space to enclose a commercial lift container(s). The refuse storage space or facility must be screened from public view and be either constructed within the building structure or in a screened enclosure on private property. Please read the code section for further clarification
4. Erosion and sediment control devices BMPs (Best Management Practices) must be implemented around the construction site to prevent discharges to the street and adjacent properties. BMPs must be identified and shown on the plan. Control measures must also be taken to prevent street surface water entering the site.
5. Plan holder must have the plans rechecked and stamped for approval by the Public Works Department before the building permit is issued

cc: Roy Murphy

0 Application-newcommercial

SURVEY OF DOWNTOWN EATING AND DRINKING ESTABLISHMENTS

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

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

G:/Planning/Ledger/Downtown Alcohol & Hrs List
06/03/08



D O W N T O W N
M A N H A T T A N B E A C H

June 24, 2009

To: Planning Commission Members
Sandra Seville-Jones
Martha Andreani
Jim Fasola
Kathleen Paralusz
David Lesser

As the Director of the DBPA I think your consideration for increasing the hours at Zinc Lounge located in the Shade Hotel is one that would benefit the entire downtown. Shade has been an asset to our community in that it brings in 18,000 visitors a year. It not only caters to our community but many locals and visitors choose Shade to take care of their most memorable events, like their wedding day. It has added to the charm and unique environment we promote in downtown, and allowing guests and visitors alike to enjoy more time would only enhance the experience and increase our tax dollars.

In an economy where sales tax was down dramatically for 1st Quarter in Manhattan Beach, the Metlox Plaza showed an actual increase by 2.56%. I would attribute this fact to the fine mix of restaurants and the small hotel, Shade. Given that Sashi Sushi is open until 12am and Petro's Greek Cuisine is open until 1am, it would only support the overall goal of getting our community to stay local and out of town visitors to stay put. As a hotel guest, that seeks later night enjoyment, the Zinc lounge is a comfortable place to relax through the night without having to drive.

Thank you for your time and ongoing support to Downtown.

Sincerely,

Mary Ann Varni
Executive Director
Downtown Manhattan Beach Business &
Professional Association



Distributed at
6/24/09 PC
meeting

Page 1 of 10



P.O. Box 3007
425 Fifteenth Street
Manhattan Beach, CA 90266
Tel: 310-545-5313
Fax: 310-545-7203
www.ManhattanBeachChamber.com

June 24, 2009

City of Manhattan Beach City Council and Planning Commission
1400 Highland Ave.
Manhattan Beach, CA 90266

Dear City Council and Planning Commission:

It is the view and recommendation of the Manhattan Beach Chamber of Commerce that the City Council approve Shade Hotel's request for extended hours.

Shade Hotel has been a valuable contributing member to the community for several years and has exemplified the community oriented management and operation that Manhattan Beach should welcome. Shade Hotel's ownership and management has always been an active promoter of the City, its organization and its causes.

Please feel free to contact Helen or myself if you have any further questions or comments.

Sincerely,

A handwritten signature in black ink that reads "David Curry". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Curry".

David Curry
Chairman of the Board, MBCC

A handwritten signature in black ink that reads "Helen Duncan". The signature is cursive and includes a circled "dc" at the end, likely a reference to the initials "DC/dc".

Helen Duncan
President/CEO, MBCC

DC/dc

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shade hotel "bar closees"

Search

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Results 1 - 2 of about 0 for **shade hotel "bar closees"**. (0.45 seconds)

Did you mean: shade hotel "bar **closees**" Top 2 results shown

Zinc Lounge - Manhattan Beach, CA. 90266 - Reviews & Directions ...

The expansive bar in and around the lobby of **Shade**, Manhattan Beach's foremost boutique hotel, Zinc Lounge ... the **bar closees** at just 11 p.m. so as not to disturb the hotel guests. ... Yes, it is in **Shade Hotel**. Yes, it is contemporary. ...
theguide.latimes.com/manhattan-beach/.../zinc-lounge-venue - [Cached](#) - [Similar](#)

What a joke - Review of **Shade**, Manhattan Beach, CA - TripAdvisor

The **bar closees** at eleven, so its "nightclub" feel is a bit of a letdown. ... I booked the **Shade Hotel** by reading the reviews on this website. ...
www.tripadvisor.com/ShowUserReviews-g32678-d577866-r5479293-**Shade**-Manhattan_Beach_California.html - [Cached](#) - [Similar](#)

Results for: **shade hotel "bar closees"**

Your search - **shade hotel "bar closees"** - did not match any documents.

Suggestions:

- Make sure all words are spelled correctly.
- Try different keywords.
- Try more general keywords.
- Try fewer keywords.

Did you mean to search for: shade hotel "bar **closees**"

shade hotel "bar closees"

Search

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[Google Home](#) - [Advertising Programs](#) - [Business Solutions](#) - [Privacy](#) - [About Google](#)

page 3 of 10

6/24/0

To The M.B. Planning Commission,

It was explained to me by a member of Shade staff that they are requesting an extension of hours to 12 midnight Sun - Thurs. and 1am Fri + Saturday and an increase from 99 to 150 people for special events.

As a resident a few blocks away, I have no objection to this request.

Sincerely,

Eleanor Deane

1312 Ardmore Ave.
Manhattan Beach, CA

Katie Kruff

To: Katie Kruff

Subject: RE: Statement for City Planning Commission Meeting

From: David Lawson [mailto:Dlawson@ParkPCA.com]

Sent: Tuesday, June 23, 2009 6:23 AM

To: Katie Kruff

Subject: RE: Statement for City Planning Commission Meeting

Hello Katty as I indicated I did live across the street from the Shade during the construction and the opening for 3 years. I enjoyed living there and had many friends over to my home as well as to the Shade. The noise level from the Shade was and has been consistent with the location and the folks attending functions. At no time did I experience intolerable noises and or events from the Shade guests. Living on Ardmore directly across the street we slept as I was always in bed by 10pm with the windows open. If I can be of any help please let me know.
Thanks Dave

David Lawson V.P Operations
Parking Company of America
11101 Lakewood Blvd.
Downey Ca 90241
(805) 896-0567

Shade Hotel Special Event Agreement

This document is an agreement (the "Agreement" between Shade Hotel ("Shade") and the event sponsor (the "Client" or "You") related to a special event (the "Event") which will be attended by guests invited by the Client (the "Guests"). The general information about the Event is as follows:

Date: Thursday, June 25, 2009

Starting Time: 5:00 PM Ending Time: 8:00 PM

Menu Minimum Price: \$0.00

Event Theme:

Est. Guest Count: 0

Space: Skydeck 5:00 PM to 8:00 PM

CLIENT INFORMATION

Client: Shade Hotel	Client:
Address: 1221 N Valley Drive	Address:
Day Tel: 310.698.5557	Day Tel:
Eve Tel:	Eve Tel:
Fax:	Fax:
E-Mail:	E-Mail:

The summary below is simply projected and not final. The prices below are based off of an average event or what we may be projecting for your event. You are in no way locked into these prices, but the minimums must still be reached._____

Projected Summary (Based on <u> 0 </u> guests)	
Menu	\$0.00 _____
Beverage	\$0.00 _____
Ceremony	_ \$0.00 _____
Security fee	\$0.00 _____
Subtotal	_ \$0.00 _____
Service Fee	_ \$0.00 _____
Sales Tax	_ \$0.00 _____
TOTAL	_ \$0.00 _____

		Payment Schedule
	Amount	Date
Initial Deposit	\$0.00 _____	

Shade
1221 N. Valley Drive - Manhattan Bch, CA 90266

310.546.49 Initial: _____ Date: _____

Page 6 of 10

(to hold space)

Event Deposit \$ 0

Final Payment \$ 0

Thursday, June 25, 2009

Damage Deposit \$ _____

General Terms:

Shade will provide a menu (to be determined) for the agreed number of Guests, to be served on the day, date and time as specified above, for the purpose of holding a privately attended special Event at the Facilities specified above.

Those Facilities Shade will be reserved for the hours as stated above. Except as permitted by Shade's policies applying to the general public or as permitted by specific terms of this Agreement, Guests will not use the Facilities prior to such starting time and will vacate the property at the designated closing time.

Members of the event party and hired vendors may arrive at a reasonable time (usually 90 minutes) prior to the scheduled start time. Reasonable time (usually approximately 30 minutes) is allowed at the event's conclusion for vendors to vacate the property.

Client must adhere to the "background music only" policy after 11:00p.m except as otherwise approved by Shade's management.

Large groups arriving in a bus will load and unload at Morningside.

No glass permitted on the Skydeck.

Guaranteed Counts

Your guaranteed guest count is due no less than 10 days prior to your event. This is the minimum number of guests for which you will be charged. Should your count increase after this date, we will do everything possible to honor your request. You will be charged accordingly. If a guaranteed count is not received by the required date, the last estimated count will be your guarantee. The guarantee count is not subject to reduction after this date.

If actual attendance exceeds your guarantee, we will adjust your bill to charge for each guest at the menu price, beverage fee, service fee and tax. This total will be deducted from your security deposit. If the total exceeds your deposit amount, you agree to pay Shade upon request.

Food Minimums

Food minimums are variable, depending on both the chosen time and location.

Security

Security is required for all events. Shade will require 1 or 2 security guards for your event depending on size and type. The client is responsible for paying the security fees of approximately \$150 per guard. Rates are dependant upon event hours. If you wish to have more security Shade will provide upon request and payment.

House Linens:

Included in each menu charge is a linen allowance. With this allowance, you will be able to cover each guest table with an ivory linen tablecloth. In addition, napkins in matching colors will be provided. Should you desire to upgrade to our specialty linen, or would like to arrange for tables that seat less than 8 to 10 guests each, you may do so for an additional fee.

Specialty Linens: Yes No

Additional Tables: Yes No

Beverage Fees

The inclusive beverage fee is a per person charge that is part of your event total. This fee includes unlimited soft drinks, traditional mixes, specialty mixes (if requested), bottled water and traditional garnishes. All of your beverages will be served in fine glassware at the bar (where applicable), as well as at your guest tables. However, only plastic is permitted on the Sky Deck. Uniformed, professional bartenders will be preparing and serving all beverages. Your final fee will be calculated at the conclusion of your event.

Alcohol

Service of alcoholic beverages is not required to hold an event at Shade. Should minors consume alcohol or should Guests become unruly, Shade reserves the right to remove such Guests, to close the bar, or to terminate the function entirely at the Client's expense.

Ceremony

This option is offered to our reception clients only. Price includes exclusive use of the Courtyard area for your wedding or other ceremony, seating as per the guaranteed guest count, a rehearsal on a day and time to be determined. Ceremony: Yes No

Shade

1221 N. Valley Drive - Manhattan Bch, CA 90266

310.546.49 Initial: _____ Date: _____

page 7 of 10

Service Fee

A service fee of 20% will be added to your event total. All service personnel will be uniformed appropriately and will be supervised by your event coordinator. Paying additional gratuity is not necessary, although Client is welcome to do so.

Sales Tax

State sales tax at the applicable rate will be added to your bill. In accordance with California State Board of Equalization regulation number 1603, all service charges must also be taxed at the same rate.

Unconsumed Food

Due to liability and insurance reasons, no unconsumed food or "leftovers" will be given away at your event's conclusion.

Exclusive Catering Agreement

Shade will provide all food and beverage items and no other items may be served without written approval of management of Shade.

We appreciate that you may have some unique family recipes, of a relative or friend who is especially talented in the kitchen. Although we cannot deviate from this policy, our talented team of chefs would be pleased to recreate this prized dish for your event.

The only exception to this policy will be specialty cakes provided by a licensed, insured, and approved professional baker. Shade does issue a preferred vendors list.

Contracted Services

In the event that you request that Shade subcontract any services on your behalf and this service results in additional expenses to Shade, you agree to reimburse Shade at such time as Shade may request.

Cancellation by Client

Should Client elect to cancel the Event, one half of the initial payment will be refunded if intent to cancel is made and received in writing at least 6 months prior to the Event. Any other fees paid associated with event under 6 months will not be refunded.

Terms of Payment

A series of payments will be made to Shade in consideration of your event. The initial payment of 50% of your event minimum is to reserve your date and to assure an understanding of all conditions of this contract. A second payment is due 6 months prior to your event and is based on 50% of the estimated remaining balance. The final payment is due ten days prior to your event. You will also have a damage deposit of \$1000 due 10 days prior to your event which will be refunded upon no acts of damage.

Lost and Damaged Articles

Shade, its employees, sub-contractors and agents cannot assume responsibility for damage to or loss of any article or merchandise brought to or left at Shade - prior to, during, or after the Event. This includes, but is not limited to; liquor, cake decorations, wedding gifts, cards, clothes, etc.

Potential Damage to Property or Injury

Client agrees to pay for all losses (including Shade's loss of revenue) due to theft, breakage, or damage and any personal injuries to Guests or others, caused by acts of Client, Client's Guests or hired vendors. A damage deposit is required at the time and amount specified in this Agreement. Deductions, if any, from the damage deposit will be documented with evidence of value provided as appropriate, and any remaining amount will be refunded within approximately two weeks of your Event's conclusion.

Shade does not permit the affixing of anything to the walls or ceiling of any Shade structure.

Disturbance and Unruly Behavior.

Shade reserves the right at its sole discretion, without liability to Shade, to exclude or remove any and all persons who become unruly, challenge the authority of Shade's management or staff, or cause or give the impression of planning to violate any law, cause damage to property or injury to any person, or to engage in behavior that Shade determines may be offensive to other Event Guests or to Hotel guests. In such circumstances, Shade also reserves the right, at its sole discretion, to terminate the Event.

Noise and Music

The Event must be conducted in a manner that does not disturb Hotel guests nor Shade's neighbors. Amplified music is permitted only with the approval of Shade's management and, in the case of an evening event, only if all rooms at the Hotel are bought out by you and/or your group. You are not required to rent all of the rooms in the Hotel if you are plugging music into the house sound system. Amplified music must not exceed 85 decibels at the source. Amplified music is permitted on the Skydeck with the use of only one speaker at ground level which shall face west.

Smoking:

Shade

1221 N. Valley Drive - Manhattan Bch, CA 90266

310.546.49 Initial: _____ Date: _____

Page 8 of 10

Smoking is not permitted anywhere on the Shade premises. We are a non-smoking facility. This includes open areas such as the Zinc Terrace, the Courtyard and the Sky Deck.

Unforeseen Circumstances

In preparing your proposal, we have attempted to consider every eventuality and to present all costs so that they can be discussed up front instead of trying to adjust your budget later. Some circumstances are beyond our control however. If we have omitted any costs or made any errors, we will inform you as soon as they have been brought to our attention.

If for any reason beyond the control of Shade, including, but not limited to, weather, accidents, travel restriction, facility operations, commodities or supplies, acts of war or acts of God, Shade is unable to perform its obligations, Shade shall not be liable to Client for said inability.

Event Insurance

Client knows that such a product exists.

Arbitration Agreement

Any controversy or claim arising out of or relating to this agreement, or breach thereof, shall be resolved by arbitration in Los Angeles County in accordance with the prevailing rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

In any action at law or in equity to enforce any of the provisions of rights under this agreement, the unsuccessful party to such action or proceeding as determined by an arbitrator in a final judgment, shall pay the successful party all costs, expenses and reasonable attorney's fees incurred therein by such party (including without limitation such costs, expenses and fees on any appeal), and if such successful party shall recover judgment in any such action or proceeding, such costs, expenses, and attorneys' fees shall be included as part of such judgment. If for any reason whatsoever, any one or more of the provisions of this agreement shall be held or deemed inoperative, unenforceable or invalid as applied to any particular case or in all cases, such circumstances shall not have the effect of rendering such provisions invalid in any other case or of rendering any of the other provisions of their agreement inoperative, unenforceable or invalid.

Responsible Party

In the event that this Agreement is signed in the name of a corporation, partnership, association, club or society, the person signing represents to Shade that he/she has full authority to sign such an Agreement. In any dispute he/she will be personally liable for the faithful performance of this Agreement.

THIS AGREEMENT MUST BE RETURNED SIGNED AND WITH THE APPROPRIATE PAYMENT WITHIN TEN DAYS (OR ON ___) OR IT WILL BECOME NULL AND VOID AND YOUR DATE MAY BE RELEASED.

I/We have reviewed this four page document, have asked questions where necessary and agree to all the terms and conditions as stated above. So entered:

Event Date: _____ Thursday, June 25, 2009 _____

Client: _____ Shade Hotel _____

Signature: _____

Date: _____

Client: _____

Signature: _____

Date: _____

Shade

Name: _____ JoLise Vought _____

Signature: _____

Date: _____

Damage Deposit to be returned to:

Address: _____

Shade

1221 N. Valley Drive - Manhattan Bch, CA 90266

310.546.49 Initial: _____ Date: _____

Page 9 of 10

Shade

1221 N. Valley Drive - Manhattan Bch, CA 90266

310.546.49 Initial: _____ Date: _____

Page 10 of 10

June 16, 2009

Dear Planning Commission;

I am writing this in regards to the Shade Hotel extension of hours Sunday through Thursday (open to midnight) – Friday & Saturday night (open to 1:00 a.m.), nights before holidays and New Years Eve. They want to have a full-service restaurant, dancing & increase to 150 people for special events. This extends to the roof deck.

Our home is on the corner of 13th and Ardmore. We are very impacted with the noise from the Shade. As it is now the Shade is open until 11:00 p.m. This especially on weekends and many nights in the summer is very disturbing to our peace and our sleep. The patrons linger outside the doors; they have loud conversations, yelling and are continuing this many nights past midnight or later. This is where they have valet parking and private cars and taxis slamming doors and engines riving.

This is our home which we have taken much pride in over the years. We were fortunate to purchase this home in 1973, making improvements over the years, but took the final leap was about 12 years ago when we completely refurbish our home. We were out of our house for 10 months during the process and planned this to be our home forever. When we bought our house we were well aware even then that we are on a busy street so we made the best of it. We raised our children here and made them very aware of the street. We also had a pottery factory across the street from us which we didn't particularly like but it never kept us up at night. But what has happened across the street from my home still bewilders us.

We were involved from the beginning when they were in the process of picking one of the developers. The Tolkin group knocked on my door and we discussed the possibilities of what this would be like. My husband and I went to many neighborhood meetings and when all was said and done our conception of the Metlox Project was going to be a small retail area and an ivy covered Bed & Breakfast. We always tried to stay on top of what was going on across the street. So much for the "Ivy Covered B&B, instead we have a rocking bar (which is referred to as a lounge) and the patrons can yell and scream past midnight. Now they want this to go on later and later. Mike Zislis has put up panels that seem to have help somewhat, but he cannot control his patrons that face the neighbors. We are not able to have our bedrooms windows open during the summer because it is just too noisy. We are forced to close the windows and put on a loud fan that will drown out the yelling from the Shade's front entrance.

This property was bought by the city of Manhattan Beach. I believe it was bought in good faith to benefit the residents but we have ended up with 3 large bars establishments. I never imagined in my wildest dreams that I would be in this position. I am here to defend my rights as a resident to have the same peace and quiet that we all deserve in our own homes that we have worked so hard for.

EXHIBIT E

Distributed 2A
6/24/09 RC.
Meeting
Page 1 of 10

My husband and I went door to door on our streets. We have collected 70 signatures of neighbors that feel the same as we do~~er~~. It is time for the city to realize the impact that has been imposed on the nearby residents.

Sincerely,
Ralph & Joan Mueller
1220 Ardmore Ave
Manhattan Beach, CA

**Manhattan Beach Residents
Petition to Oppose Shade Hotel's Plan to Extend Hours and Increase Restaurant Capacity**

We the undersigned residents oppose the application by Manhattan Inn Operation Company, LLC (Michael Zislis, Manager) to the City of Manhattan Beach to modify the previously approved Master Use Permit and do the following:

- Extend hours on Sunday to Thursday from current 11:00 closing to 12:00 midnight closing.
- Extend hours on Friday and Saturday and on nights before Holidays and New Years Eve from current 11:00 closing to 1:00 am closing.
- Add breakfast, lunch, and evening "small plates" service. Current permit allows only limited food service for guests.
- Allow 150 people for special events (vs. 99 on the current permit.)
- Allow any increase in food service, patron capacity, or noise on the roof deck beyond 10pm.

Please see attached Notice of Public Hearing for exact wording of the application (attached) before signing below:

Name	Signature	Address	e-mail address
Patricia Flores	<i>[Signature]</i>	1208 N. Ardmore	manhattanbeachca 90766
Tommy Brown	<i>[Signature]</i>	1216 N. Ardmore MB	cocobear30@yahoo.com
Debbie Taylor	<i>[Signature]</i>	520-12th St. MB	dmtteeth@yahoo.com
Brent Taylor	<i>[Signature]</i>	520-12th st. MB	brentjtaylor@gmail.com
Joe Taylor	<i>[Signature]</i>	520-12th st. MB	joseph.taylor.50@gmail.com
Harold Drake	<i>[Signature]</i>	517 12th St MB	frank@satterco.com
Scott Murch	<i>[Signature]</i>	520 12th st.	scotkmurch@yahoo.com
Wesley Carlin	<i>[Signature]</i>	617 12th Street MB	
Chris Effley	<i>[Signature]</i>	1146 Fishes	
Jodi Sklar	<i>[Signature]</i>	512 12th St	
Tom MAGNUS	<i>[Signature]</i>	1204 ARDMORE	
Mike Lloyd	<i>[Signature]</i>	1204 Ardmore Ave.	Bellgard 30 Vegas - Net
Juda Bell	<i>[Signature]</i>	1204 Ardmore Ave.	" "

(SEE OTHER SIDE)

IN ADDITION TO THE NOISE GENERATED AT THIS SITE,
THE OWNERS ARE NOT IN COMPLIANCE WITH THE CON-
DITIONAL USE PERMIT DUE TO THE EMPLOYEES ARE
CONTINUING TO PARK IN THE NEIGHBORHOODS, AND
PARKING LOTS — I HAVE NOT BEEN SUCCESSFUL
IN MY ATTEMPTS TO HAVE THE POLICE DEPT DO A
NOISE STUDY FOR THE SHADE, OR ANY OF THE
DRINKING ESTABLISHMENTS ON THE METLOX SITE.
THERE APPEARS TO BE A CONFLICT OF INTEREST
WITH THE CITY, PD, AND THE SHADE
THE CITY UTILIZES THE SHADE FOR THEIR EVENTS
INCLUDING THE CHAMBER OF COMMERCE.
MR. ZISHS IS THE DOWNTOWN ASSOC PRES,

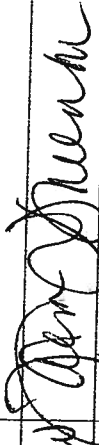


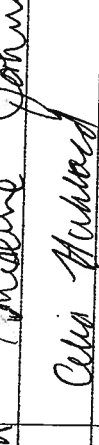
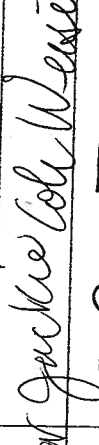

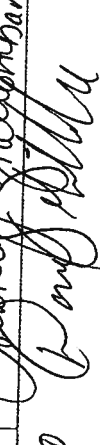


STEVE
WIBLE

Manhattan Beach Residents
 Petition to Oppose Shade Hotel's Plan to Extend Hours and Increase Restaurant Capacity

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- Add breakfast, lunch, and evening "small plates" service. Current permit allows only limited food service for guests.
- Allow 150 people for special events (vs. 99 on the current permit.)
- Allow any increase in food service, patron capacity, or noise on the roof deck beyond 10pm.

Please see attached Notice of Public Hearing for exact wording of the application (attached) before signing below:

Name	Signature	Address	e-mail address
Laura D. Muenchow		1304 No. Ardmore Ave MB	pmuenchow@msn.com
Dustin Muenchow		1304 No. Ardmore Ave MB	dustinmuenchow@yahoo.com
Dana Weiser		515 13th St.	djsbaeway2play@webtv.net
Christine Johnson		517 13th St	chrisnjohanson32@yahoo.com
Celia Hubbard		1300 N. Ardmore Ave MB	celiahubb2@gmail.com
Jackie Cole Weiser		515 13th St MB,	PJShaeWay2Play@WebTV
JEFF DOOLEY		1140 N. ARDMORE AVE MB	jdooley64@hotmail.com
Nancy Giallonardo		1144 N. Ardmore Ave MB	giabardo@roadrunner.com
DANIEL GIALLOMBARDO		1144 N. ARDMORE AVE MB	DAN GIALLOMBARDO@HOTMAIL.CO

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10

Manhattan Beach Residents Petition to Oppose Shade Hotel's Plan to Extend Hours and Increase Restaurant Capacity

We the undersigned residents oppose the application by Manhattan Inn Operation Company, LLC (Michael Zisis, Manager) to the City of Manhattan Beach to modify the previously approved Master Use Permit and do the following:

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- Allow any increase in food service, patron capacity, or noise on the roof deck beyond 10pm.

Please see attached Notice of Public Hearing for exact wording of the application (attached) before signing below:

Name	Signature	Address	e-mail address
Stephanie Hubbard	<i>Stephanie Hubbard</i>	1300 N. Ardmore	Steffhubz@verizon.net
<i>R-J Mueller</i>	<i>R-J Mueller</i>	1220 N Ardmore	R-J MUELLER@MSN.R
Joan Mueller	<i>Joan Mueller</i>	1111	1111
Jelana C. Joly	<i>Jelana C. Joly</i>	601 13th ST.	1dolley1@verizon.net
Brian K. Tyler	<i>Brian K. Tyler</i>	517 13th	BRIONTTE@YAHOO.COM
Alex Madrinkian	<i>Alex Madrinkian</i>	520 13th ST	MADRINKIAN@MAC.COM
Michael Madrinkian	<i>Michael Madrinkian</i>	520 13th st.	Madrinkian@mac.com
Carolyn Madrinkian	<i>Carolyn Madrinkian</i>	520 13th ST	Madrinkian@mac.com

Heidi Walter	Callan	528 13th Street	medi.walter@lexisnexis.com
Mike Walter		528 15th St	Mike.walter9999@yaho.com
Patricia Valley	Patricia Valley	601-13th St	
Nancy Miller	Nancy Miller	2414th St	
Paul Auencou	Paul Auencou	1304 N. Adams	pauencou@msn.com
CAROL YAMASHITA	Carol Yamashita	525 13th St	
George Yamashita	George Yamashita	525 13th St	
Georgette R Miller	Georgette R Miller	533 13th St	
Matt Anderson	RA	1215 Fisho Ar	
Cheryl Marino	Cheryl Marino	1216 Fisher	
Michael Penman	Michael Penman	1201 Fisher	Penman@map-developer.com
ROBERT C. LITTLE	Robert C. Little	509 13th St	
Sandra Gafney	Sandra Gafney	531 13th St	
William Little	William Little	613 13th Street	
Mike Walsh	Mike Walsh	609 13th St.	
Nate Hubbard	Nate Hubbard	1300 N. Ardmore Av	watchub2@msn.com
Ramona Cangialosi	Ramona Cangialosi	653-13th St	
John Bushman	John Bushman	1508 N. Ardmore Ave.	



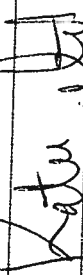
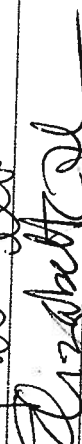
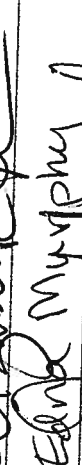

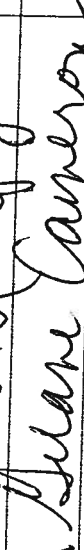
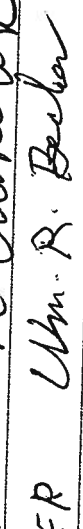
NAME	SIGNATURE	ADDRESS	MB
Monica Marshall		500 14 th ST	MB
Thomas		516 14 th ST	MB
Loise Kovacic		516-14 th St	M.B.
MARIE ZEILEN		509 14 th ST	M.B.
MICHELLE CROUSE		520 14 th ST	MB
Jim Heecht		604 14 th st	MB
MILDRED E. HIRATZ		604 14 th St	M.B.
ALISON B. GERBER		612 14 th St	MB
JAN ROSEN FELD		625 9 th St	MB
Phil Johnson		634 14 th ST	MB
Tom Northrup		642 14 th ST	MB
BRUCE EDDY		644 14 th ST	MB
JANICE WURICH		623 14 th STREET	MB
CLARENCE BRAUER		615-14 th ST	MB
MARY ANN BRAUER		615-14 th St	MB
THOMAS HILL		1148 ARDMORE	MB
ROSEMARY TRIMMER		659 13 th St	MB

Manhattan Beach Residents
 Petition to Oppose Shade Hotel's Plan to Extend Hours and Increase Restaurant Capacity

We the undersigned residents oppose the application by Manhattan Inn Operation Company, LLC (Michael Zislis, Manager) to the City of Manhattan Beach to modify the previously approved Master Use Permit and do the following:

- Extend hours on Sunday to Thursday from current 11:00 closing to 12:00 midnight closing.
- Extend hours on Friday and Saturday and on nights before Holidays and New Years Eve from current 11:00 closing to 1:00 am closing.
- Add breakfast, lunch, and evening "small plates" service. Current permit allows only limited food service for guests.
- Allow 150 people for special events (vs. 99 on the current permit.)
- Allow any increase in food service, patron capacity, or noise on the roof deck beyond 10pm.

Please see attached Notice of Public Hearing for exact wording of the application (attached) before signing below:

Name	Signature	Address	e-mail address
Laural Fabian		649 13 th St CA 9023	laural.fabian@jagpa.com
Christine Curtis		509 11 th St CA 9023	kaddr100@aol.com
Katie Deist		517 11 th St mb, CA 9023	kathiedeist@gmail.com
Elizabeth Fouch		616 11 th Street	pachae1@verizon.net
Don Murphy		625-11 th Street	donandena.thurphy@verizon.net
Don Murphy		625-11 th St	AD - 11
Gelane Cameron		641 11 th St.	cameronrd@msn.com
WM R BECKER		600 11 th St. M.B.	

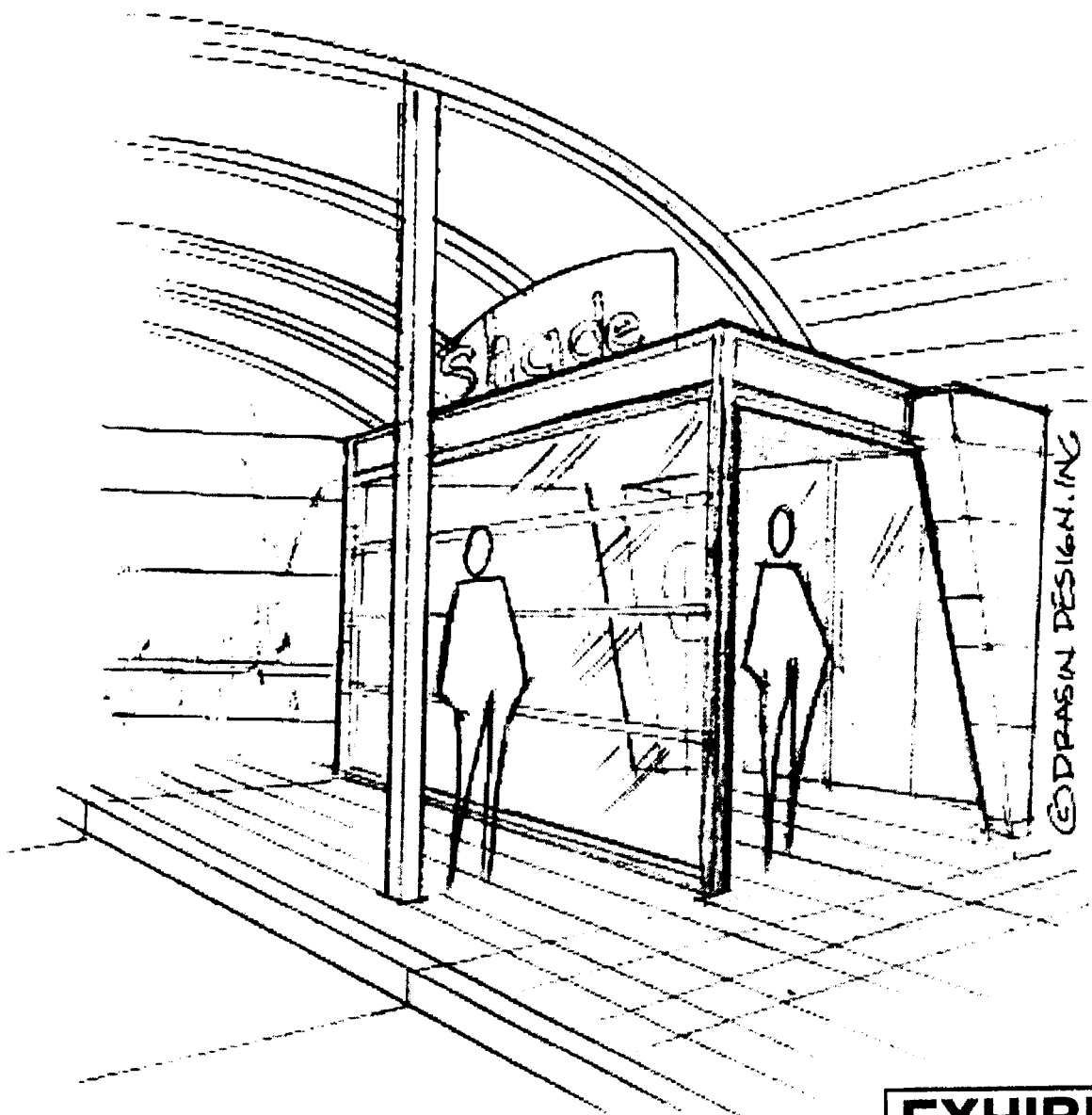
**Manhattan Beach Residents
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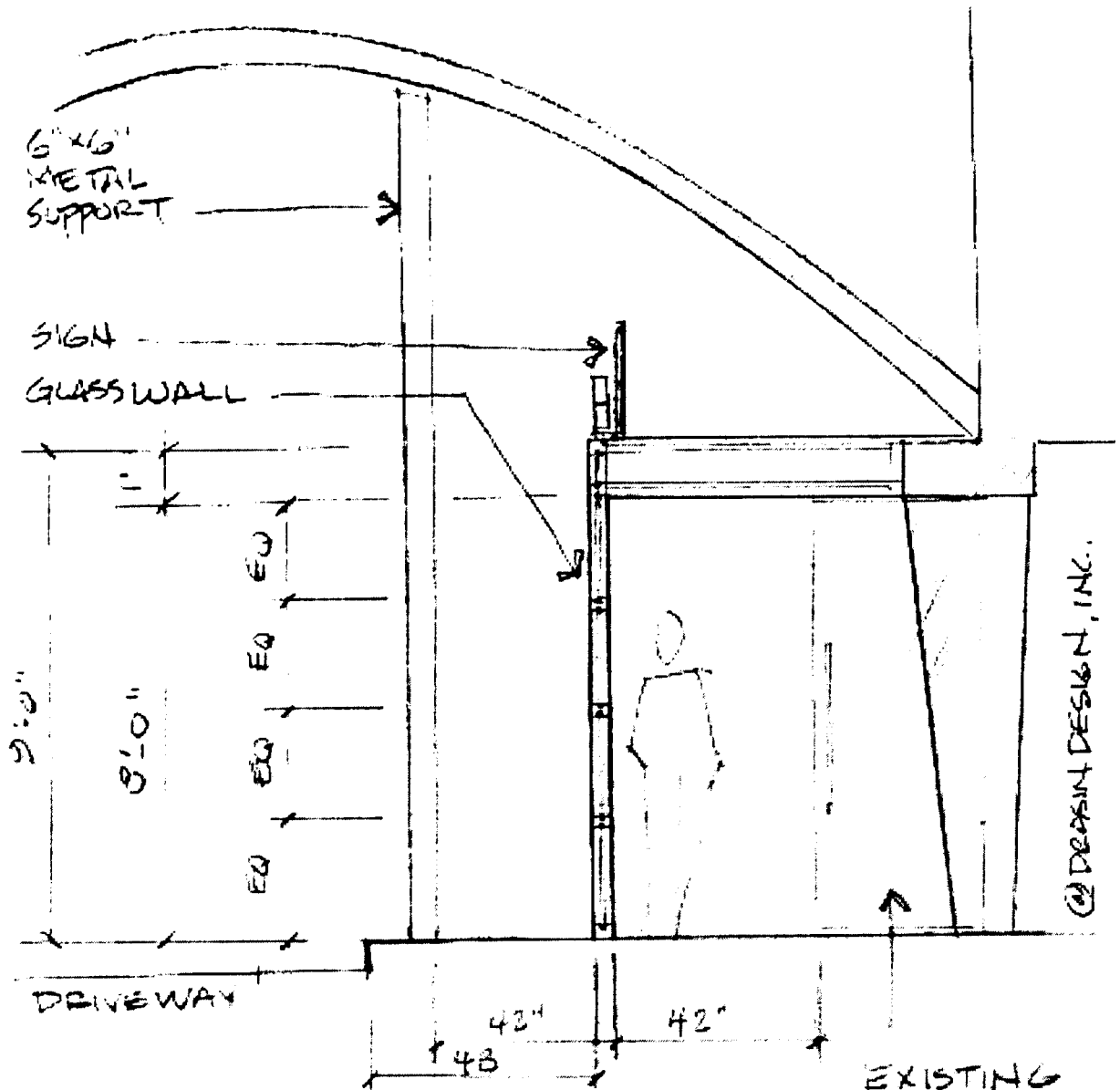
Name	Signature	Address	e-mail address
<i>Anna O'Brien</i>	<i>Anna O'Brien</i>	<i>529 12th St.</i>	<i>annaob5@me.com</i>



SHADE HOTEL
PROPOSED GLASS ENTRYWAY
6-15-09

EXHIBIT E

Distributed to
P.C. at
6/24/09 Meeting
page 1 of 21



SECTION
 N.T.S.
 SHADE HOTEL
 PROPOSED GLASS ENTRYWAY

Laurie B. Jester

From: Laurie B. Jester
Sent: Friday, June 19, 2009 4:47 PM
To: List - Planning Commission
Subject: FW: Shade NOISE!

We received this after the packet was copied and distributed- I will provide copies at the meeting too.
Laurie

From: Richard Thompson
Sent: Friday, June 19, 2009 3:12 PM
To: Laurie B. Jester
Subject: FW: Shade NOISE!

Go ahead and forward to PC

Richard Thompson
Director of Community Development

From: Nate Hubbard [mailto:natehubz@mac.com]
Sent: Friday, June 19, 2009 3:05 PM
To: Richard Thompson
Cc: zislis@aol.com; mike@shadehotel.com
Subject: Fwd: Shade NOISE!

FYI...Nate

Begin forwarded message:

From: Stephanie Hubbard <steffhubz@verizon.net>
Date: June 19, 2009 2:19:29 AM PDT
To: CityCouncil@citymb.info
Cc: 'Nate Hubbard' <natehubz@mac.com>
Subject: Shade NOISE!

Good Morning,

I hope you are all sleeping well. I am exhausted. I attended the MBMS promotion on Wednesday, and Mira Costa Graduation last night – as did many of you. I just finished teaching school for the year and you can imagine how tired I am from getting all of my report cards out, arranging end-of-year activities, finishing memory books and saying good bye to my students. I also had all the usual end-of-year activity for my own children. So why am I e-mailing you at 2:08 in the morning? Because for the last ½ hour I have been listening to a bunch of loud, boisterous men making noisy conversation right OUTSIDE of the Shade Hotel's doors. When I called the hotel, it took 10 rings for someone to answer and when he did, he was already aware of how loud his guests were. He just said, "I'm sorry, they are leaving now."

I know that Mike Zislis has tried very hard to mitigate the noise coming from his hotel and I applaud his efforts, but I want to go on record that I am ADAMANTLY opposed to any changes in his use permit that will allow ONE MORE GUEST, ONE MORE SERVICE, or ONE MORE MINUTE of operation. I will be at the hearing on the 24th and I will urge my neighbors to do the same. I don't know if you have any control over this, but I

hope that you will refrain from scheduling any more meetings during the summer on items that directly affect residents. That is when many of us go on vacation. And that is when Shade's liquor license went through in the first place -- turning a planned, quiet bed and breakfast into a sleep-wrecker for those of us who live across the street.

Thanks for listening! Sorry if I sound a bit cranky, but I have to work in a few hours!

Stephanie Hubbard

- **Gerry O'Connor, No Address Provided**

In response to **Mr. O'Connor's** comments, Mayor Fahey stated that Council learned at a conference, that it is fairly common in other cities to develop a set of "norms" or guidelines for new Councilmembers that come on board, to see what the past practices have been, including commission appointments and other issues; and that this may be a discussion at the Work Plan Meeting.

Indicating that a sub-committee had been formed with Mayor Fahey and Councilmember Aldinger, City Manager Geoff Dolan stated that his assignment was to write down existing "norms", look at other cities guidelines and provide them as a starting point for the sub-committee by the end of the summer.

Council held a brief discussion about whether or not the sub-committee had been formed.

In response to Mayor Fahey, City Attorney Robert Wadden clarified that the forming of a sub-committee does not have to be agendized because it is an organizational matter.

MOTION: Councilmember Tell moved to approve forming a sub-committee with Mayor Fahey and Councilmember Aldinger to review implementing a set of "norms". The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

Ayes: Tell, Aldinger, Montgomery, Ward and Mayor Fahey.
Noes: None.
Absent: None.
Abstain: None.

05/0621.15 Consideration of a Planning Commission Decision to Approve a Master Use Permit Amendment for Modifications to the Previously Approved Alcohol Sales and Special Events at the Shade Hotel, Metlox Site, 1221 North Valley Drive

Councilmember Aldinger stated that he pulled this item because of his concern regarding parking, noting that events could be increased from 60 to 99 people; and a smaller concern about the "portable cart" causing a more robust party, due to full service liquor, rather than the original plan for wine and beer only.

Mayor Pro Tem Ward echoed some of Councilmember Aldinger's comments, explaining that the number of people was somewhat of a concern, but that the "flexibility of hours" for the Wine Bar in the lobby needed some clarification for him. He further added that it was his impression that it is an "unwritten rule" that an entity "try out" for a period of several years before it would be given a full service liquor license.

Councilmember Aldinger added that he thought a full liquor license was necessary to be able to provide in-room liquor, but questioned having the "portable carts" and how can they be regulated.

City Attorney Robert Wadden clarified that Council can either approve the Planning Commission decision or appeal this matter and schedule a Public Hearing where modifications would have to be introduced.

In response to Councilmember Montgomery's question, Councilmember Aldinger replied that portable carts are the same as a portable bar.

Community Development Director Richard Thompson explained that nothing in the amendment changes the size of events; it only changes when Temporary Use Permits, which are approved administratively, are required for events, and that it will not have an impact on the parking. He added that the other control measure that the City has is the Annual Entertainment Permit and that evaluations of what have transpired in the past allow for restrictions to be placed on an event-by-event basis. He further explained that, in terms of hours of operation, the permit is even more restrictive than the rest of the downtown.

Mayor Fahey emphasized that the flexibility of hours for the Wine Bar would possibly be for an afternoon wedding and the ability to serve liquor for the event.

Responding to Councilmember Aldinger's questions about the original approval, Community Development Director Thompson stated that the original approval was for beer and wine in the hotel and liquor in the mini bars in the rooms.

Councilmember Montgomery and Councilmember Tell added that the flexibility being requested in the Wine Bar was for earlier hours based on the desires of the customers.

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"; 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.

Councilmember Tell asked for clarification regarding if full liquor service is available at the wine bar, not just on the portable liquor carts to which **Mr. Zislis** responded that liquor is available at the wine bar.

Council held a brief discussion on the "flexibility of hours" for the Wine Bar and concurred that it reflected the ability to have liquor earlier in the day than 5:00 p.m.

The following individuals spoke on this item:

- **Gerry O'Connor, No Address Provided**
- **Esther Besbris, No Address Provided**
- **Viet Ngo, No Address Provided**
- **Karol Wahlberg, No Address Provided**
- **Jackie May, No Address Provided**

Responding to Councilmember Aldinger's question, Community Development Director Thompson stated that there is a roof top spa and that a third story was denied by the Coastal Commission.

City Manager Dolan also replied that the spa is shielded from the residents to the east.

Mayor Fahey emphasized that nothing has changed about this project and the roof deck.

Councilmember Aldinger reiterated that the real reason for pulling this item was the parking and the increase from 60 to 99 participants at events.

Community Development Director Thompson responded that he couldn't imagine having a parking problem for an event with 99 participants and that these were the numbers (the maximum number of people using the hotel) that were used for the Environmental Impact Report. He added that the number "60" came from the group originally planning to become the owners; that raising the number only changes the threshold for needing a Temporary Use Permit; that the City would be looking at two evaluations (the Entertainment Permit and Temporary Use Permits), and that this would allow Staff to prevent negative impacts to the City including parking and noise.

Councilmember Tell voiced his concerns regarding the change from wine and beer to a full liquor license.

Community Development Director Thompson reported that reviews are generally complaint driven; that from a regulatory point of view, he feels confident that they have the measures necessary to prevent a negative impact; and that regulating and monitoring the Entertainment Permit is an important element to prevent impacts.

Councilmember Aldinger emphasized that he felt confident, previously, because the license was only beer and wine.

Mayor Fahey stressed that people should be able to have a drink at a nice hotel and that she doesn't see a problem with it.

City Manager Dolan confirmed that the previous request was for beer and wine and that it was not a case of asking for full service liquor and being turned down.

In response to Councilmember Tell, City Attorney Wadden confirmed that another Public Hearing would notice the same people and that the only difference is that it would be held by the City Council rather than the Planning Commission.

Council held a brief discussion concurring that the only change in the events is that the maximum number of people attending an event, without a Temporary Use Permit, would be 99.

Mayor Fahey asked if there was a motion to set this item for appeal and a Public Hearing. Hearing none, she asked for a motion to receive and file the report.

MOTION: Mayor Pro Tem Ward moved to receive and file the subject report. The motion was seconded by Councilmember Tell and passed by the following unanimous roll call vote:

Ayes: Tell, Aldinger, Montgomery, Ward and Mayor Fahey.
Noes: None.
Absent: None.
Abstain: None.

BLANK

CITY OF MANHATTAN BEACH
MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION
MAY 25, 2005

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on
2 Wednesday, May 25, 2005, at 6:40 p.m. in the City Council Chambers, City Hall, 1400 Highland
3 Avenue.

4
5 **ROLL CALL**

6
7 Chairman O'Connor called the meeting to order.

8
9 Members Present: Kuch, Savikas, Simon, Chairman O'Connor
10 Members Absent: None
11 Staff: Richard Thompson, Director of Community Development
12 Laurie Jester, Senior Planner
13 Sarah Boeschen, Recording Secretary
14

15 **APPROVAL OF MINUTES** April 27, 2005

16
17 A motion was MADE and SECONDED (Simon/Savikas) to **APPROVE** the minutes of April 27,
18 2005.

19
20 AYES: Kuch, Savikas, Simon, Chairman O'Connor
21 NOES: None
22 ABSENT: None
23 ABSTAIN: None
24

25 **AUDIENCE PARTICIPATION**

26
27 **Hanon Sinay**, a resident of the 2800 block of Laurel Avenue, submitted a letter to the
28 Commissioners regarding lot mergers that he has previously presented to the City Council at
29 their meeting of May 17, 2005. He thanked the Commissioners for their hard work regarding the
30 issue.

31
32 In response to a question from Chairman O'Connor, Director Thompson said that the Planning
33 Commission may be addressing the issue of lot mergers again in the future. He stated that the
34 issue will be presented at the City Council Work Plan meeting currently being scheduled for next
35 month in order for the Council to provide further direction.

36
37 **BUSINESS ITEMS**

38
39 **PUBLIC HEARINGS**

40
41 **05/052505.1 Consideration of a MASTER USE PERMIT AMENDMENT for**
42 **Modifications to Previously Approved Alcohol Sales and Special Events at**

PLANNING COMMISSION MINUTES

May 25, 2005

Page 2

**the Shade Hotel, Metlox Site, 1221 North Valley Drive (Manhattan Inn
Operation Company LLC)**

1
2
3
4 Senior Planner Jester summarized the staff report. She stated that the current entitlement permits
5 beer and wine service throughout the hotel and full liquor service in mini-bars within the hotel
6 rooms. She stated that the Department of Alcoholic Beverage Control (ABC) allows full liquor
7 in mini-bars only if full alcohol service is permitted to the public throughout the site in
8 conjunction with food service. She indicated that the proposal is to modify the previously
9 approved Master Use Permit to allow full liquor service throughout the hotel in conjunction with
10 food service, as well as permitting full alcohol service for special events. She commented that
11 the second proposal is to change the permitted capacity for special events from 60 as previously
12 approved to 99 without the need for obtaining a Temporary Use Permit. She commented that
13 special events would occur within the interior courtyard of the hotel surrounded by the structure,
14 and the building occupancy of the area is over 200 people. She said that the goals of the
15 proposed amendments are to improve the hotel services; provide a better, more attractive facility;
16 to provide services similar to other hotels in the surrounding area; and to comply with ABC
17 regulations. She indicated that notice was provided to all properties within a 500 foot radius;
18 posted on the City's web site, and advertised in the Daily Breeze. She commented that the
19 Police Department verbally indicated that they were supportive of the application and that their
20 concerns have been addressed with the conditions. She stated that the Chamber of Commerce
21 and Downtown Business and Professional Association have submitted letters in support of the
22 proposed amendment. She indicated that staff did not receive any public comments.

23
24 Senior Planner Jester indicated that staff is proposing specific conditions that alcohol be served
25 with food; that advertising for the wine bar be limited to attracting hotel guests; that the wine bar
26 have limited food service and only be open during evening hours; that menu signs not be placed
27 outside the hotel; that no alcohol service occur after 9:00 p.m. on the outdoor deck; that alcohol
28 service stop 30 minutes before the end of special events; and that the public food and alcohol
29 service be limited to breakfast, evening appetizers, and special events. She stated that the layout
30 of the lobby and roof deck would be subject to the Director's approval; special events would be
31 limited to 99 people without the need for a Temporary Use Permit; and the entertainment permit
32 would require annual review and approval by the Director. She commented that currently
33 entertainment is limited to two acoustic performers, and any request above that requires a permit
34 that is circulated to the Police and Fire Departments and subject to conditions on hours, types of
35 instrument, number of musicians, hours, and location. She stated that staff is recommending
36 approval of the proposed amendment.

37
38 In response to a comment from Commissioner Savikas, Senior Planner Jester indicated that it is a
39 requirement of the ABC that alcohol be served with food, and it is included as a condition.

40
41 Commissioner Savikas suggested that the fourth sentence of Condition 3 on page 5 of the

10 of 21

PLANNING COMMISSION MINUTES

May 25, 2005

Page 3

1 proposed Resolution be revised to state that service of alcohol at the hotel shall only be in
2 conjunction with food.

3
4 Senior Planner Jester commented that her understanding of the ABC regulation is that food must
5 be offered but not necessarily that it must be served with alcohol.

6
7 In response to a question from Commissioner Savikas, Senior Planner Jester stated that the
8 emphasis of the wine bar would be serving wine, but full alcohol service would also be available.

9
10 In response to a question from Commissioner Savikas, Senior Planner Jester said that
11 Entertainment Permits require approval by the Community Development Director and typically
12 can have restrictions including conditions on hours, size of the performance area, location, type
13 of instruments, number of musicians, type of amplification, number of times per week, and
14 soundproofing.

15
16 In response to a comment from Chairman O'Connor, Senior Planner Jester indicated that there
17 are no changes to the original conditions regarding entertainment permits with the proposed new
18 amendments.

19
20 In response to a comment from Chairman O'Connor, Senior Planner Jester indicated that the
21 amendment would apply to the hotel use only, and there is a condition prohibiting any
22 consumption of alcohol from the hotel within the remainder of the Metlox development.

23
24 Chairman O'Connor opened the public hearing

25
26 **Michael Zislis**, the applicant, indicated that the purpose of the request is to change the alcohol
27 use to comply with State ABC regulations and to increase the threshold for City notification of
28 event capacity from 60 to 99 people. He pointed out that they are not proposing to change the
29 event space capacity which is regulated by the Fire Department but rather to change the capacity
30 by which the City must be notified for issuance of a Temporary Use Permit. He said that there is
31 no license granted by the ABC to allow full alcohol service only for mini-bars. He commented
32 that a type 47 license requires that food service be provided along with alcohol service. He
33 indicated that they are proposing food service with banquets, breakfast, room service, and
34 appetizers in the lounge area. He stated that notice was provided to properties within a 500 foot
35 radius of the site, and there was a notice posted on Valley Drive. He said that no protests have
36 been received at the Department of Alcoholic Beverage Control. He indicated that the City has
37 control over the use with approval of the Entertainment Permit. He commented that the lobby is
38 directly under the hotel rooms, and it would be essential for their business to mitigate any noise
39 impacts resulting from the wine bar. He indicated that alcohol service would be limited to 10:00
40 p.m. He said that the current Use Permit process allows events from 60 to 200 with a temporary
41 use permit. He indicated that requiring a Temporary Use Permit for any event with over 60

PLANNING COMMISSION MINUTES

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1 people is very restrictive and impractical, and they are requesting to be permitted to have events
2 up to 99 people without the need for a special permit.

3
4 In response to a question from Commissioner Simon, **Mr. Zislis** indicated that the hours for
5 breakfast service on the terrace would be 7:00 a.m. to 10:00 a.m. Monday through Friday and
6 8:00 a.m. to 11:00 a.m. on Saturday and Sunday.

7
8 **Carol Rowe**, representing the Downtown Business and Professional Association, said that they
9 are in support of the application and are looking forward to the opening of the hotel. She
10 indicated that they are frequently asked where to stay and what facilities that are available for
11 weddings within the City. She commented that the applicants want to be a full service facility
12 for their guests and for events, and limiting them would make it more difficult for their business
13 to be successful. She stated that the applicants are good members of the business community
14 and are active in their association. She said that the hotel will bring guests to the downtown area
15 in a pedestrian friendly environment.

16
17 **Viet Ngo**, stated that he believes Chairman O'Connor has no jurisdiction to vote on the issue
18 because the City Council has appointed two new Commissioners, and any decision made tonight
19 will be nullified under Government Code Section 655009.

20
21 Chairman O'Connor pointed out that the new Commissioners are not seated on the Commission
22 until after June 1, 2005.

23
24 **Mr. Ngo** stated that a formal complaint has been filed with the United States Department of
25 Justice regarding the ongoing joint activity with the City Council, Metlox LLC and Jonathan
26 Tolkin and the matter has been referred to the FBI. He stated that the Commissioners are all
27 listed in his complaint, along with Director Thompson and Senior Planner Jester. He said that he
28 believes Jonathan Tolkin and Metlox LLC is a racketeering enterprise. He stated that the use of
29 the public property for the private Metlox development project is circumventing the public
30 contract code in violation of Title 18 of the U.S. Code Section 666. He stated that the City has
31 received more than \$10,000.00 in Federal Community Development Block Grant funds.. He
32 indicated that the use of public property for private use is a Federal offense and extortion, as
33 indicated by the United States v. Bynum, United States v. Mirikitani and the United States v.
34 Cabrera. He stated that the Commission should not approve the permit illegally, and the U.S.
35 attorney of Indiana made a conviction of the city controller for the use of public money for
36 private use.

37
38 **Jay Letterman**, a resident of the 3600 block of The Strand, said that he would like to have his
39 daughter's wedding at the Shade Hotel. He said that they would like for the license to be
40 approved to allow them to have full service with dining, dancing and alcohol service. He
41 indicated that it is difficult to plan an event with such strict limitations as currently exist without

12 of 21

PLANNING COMMISSION MINUTES

May 25, 2005

Page 5

1 approval of the proposed amendments, and they are hoping that the proposal will be approved.

2
3 **Ron Miranda**, a resident of the 700 block of Manhattan Beach Boulevard, indicated that the
4 applicant runs his existing business very professionally. He commented that most hotels have
5 full alcohol service, and it is necessary for being successful. He said that he would support the
6 proposed amendment, and the downtown business owners are looking forward to the hotel
7 coming into the area.

8
9 **Bill Victor**, said that his residence is within 500 feet of the subject site, and he was not mailed
10 notice of the hearing. He stated that the Commissioners should consider the process by which
11 the hotel was approved before they make a decision regarding the proposed amendments. He
12 pointed out that the approval of a maximum of 60 people for special events without requiring a
13 Temporary Use Permit was reached after a great deal of consideration. He stated that members
14 of the community do not come to meetings because they feel it has become futile to express their
15 opinions. He commented that the traffic has not decreased in the City since the proposal was
16 originally improved. He said that the bias of the Chamber of Commerce should be noted and
17 questioned as to representing the interests of the community. He commented that the indication
18 of the need for special events and hotel services in the City has been exaggerated regarding the
19 subject establishment. He said that the hotel should succeed within the limitations that were
20 originally approved and not be granted greater entitlements that would allow it to impact the
21 peace and tranquility of the residents further. He commented that there would be more guests for
22 special events than who stay at the hotel, and there has not been planning for the parking. He
23 also commented that he believes that there currently are enough liquor licenses in the downtown
24 area, and liquor service in the hotel is not a community need. He commented that the hotel
25 should operate in the capacity currently permitted before their use is expanded. He stated that he
26 objects to granting the proposed amendment.

27
28 Chairman O'Connor closed the public hearing.

29
30 In response to a question from Commissioner Savikas, Director Thompson commented that two
31 restaurants have applied for full liquor licenses within the Metlox development that were
32 approved under the Master Use Permit for the development. He indicated that the hotel was
33 always intended to have some type of liquor service.

34
35 Commissioner Simon indicated that he viewed the property. He indicated that he was originally
36 concerned with alcohol service for the establishment. He commented that he now has a better
37 understanding of the areas where alcohol would be served after touring the property. He
38 indicated that his concern is the neighbors; however, he is impressed that there has been no
39 protest regarding the application. He said that he does not believe that residents have given up
40 on the system but rather that they do not have large concerns with the operation of the hotel. He
41 pointed out that there was a great deal of public participation in the discussion regarding lot

PLANNING COMMISSION MINUTES

May 25, 2005

Page 6

1 mergers at a recent meeting, and the Commission did respond to their concerns. He said that he
2 suspects that there are not great concerns within the community because they feel the
3 establishment would not have a direct effect on them. He commented that he does not have a
4 concern with parking to accommodate the proposed increased usage because of the new parking
5 structure. He said that he was impressed that the Police Department expressed support for the
6 application. He indicated that allowing full alcohol service only in mini-bars to see any impacts
7 that result is not an option because it is prohibited by the ABC, and the only options are to either
8 expand or deny the original entitlement. He said that the usage would be restricted to the usage
9 within the hotel, and he is not concerned with it becoming a bar type of use. He said that
10 because there is a permitted capacity for events of 200 people, he does not feel allowing 99
11 people for special events without a Temporary Use Permit is a significant change. He stated that
12 he would support the proposal.

13
14 Commissioner Kuch said that he is pleased that a local and proven business owner has taken
15 over the operation of the hotel. He commented that the occupancy of the hotel is quite
16 conservative. He said that the request to allow 99 people for events is reasonable, and he would
17 not object to the request for full service of alcohol.

18
19 Commissioner Savikas stated that she feels the parking structure should be able to accommodate
20 99 people for special events that is being proposed. She said that she has a concern with noise
21 from a party on the deck patio area around the Jacuzzi spilling over to adjacent residences. She
22 said that if she were to approve the proposal, she would like for conditions to be placed on the
23 upper deck.

24
25 Director Thompson said that the original entitlement allowed for wine to be served on the top
26 deck, and staff determined that 9:00 p.m. was an appropriate time to limit such service. He said
27 that the change with the current proposal for the top deck would be to allow the service of full
28 liquor in addition to wine. He pointed out that no entertainment would be permitted on the deck
29 area. He indicated that problems related to alcohol service typically occur after 10:00 p.m.

30
31 Senior Planner Jester said that there is a condition that the deck be closed at 10:00 p.m.

32
33 Chairman O'Connor indicated that his original concerns were largely addressed by the original
34 staff report, and the concerns he had about the subject proposal have also been adequately
35 addressed. He pointed out that the area under consideration is only the courtyard within the
36 hotel quarters, and the Metlox plaza is not included. He said that the addition of a further level
37 of underground parking beyond the requirements of the hotel and commercial uses provides
38 additional parking. He also commented that the underground lot is the closest and most
39 available parking for users of the hotel. He pointed out that the new Commissioners are seated at
40 the first meeting in June, and the current Commission is operating under its full authority in
41 considering the issue. He pointed out that Ms. Rowe represents the Downtown Business and

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PLANNING COMMISSION MINUTES

May 25, 2005

Page 7

1 Professional Association and not the Chamber of Commerce as indicated by Mr. Victor. He
2 commented that both the Downtown Business and Professional Association and the Chamber of
3 Commerce have submitted letters in support of the proposal. He stated that the original
4 conditions imposed on the project were meant to protect the community and were reached after
5 much public participation. He said that the current proposal is for modifications that he finds to
6 be reasonable. He commented that it is a unique situation because limited service of full alcohol
7 only for mini-bars is not permitted by the ABC, and a decision needs to be made whether to
8 allow full alcohol service for the establishment. He said that he does not share the concern of
9 Commissioner Savikas with the rooftop deck because of the specific limitation on hours. He
10 said that he is confident that any issues would be addressed by the accountability of the hotel
11 owner and by the review of the Community Development Director. He said that he is
12 comfortable with the proposal and is in support.

13
14 Commissioner Savikas said that her concerns have been addressed by staff.

15
16 Senior Planner Jester clarified that the porch or terrace would be included with the other areas
17 where alcohol consumption would be allowed on page 2, item J of the proposed Resolution. She
18 stated that item K would be modified to indicate that 99 people would be permitted for special
19 events without a Temporary Use Permit. She said that item L would be modified to include that
20 breakfast service would occur in the living room, courtyard and/or the porch from 6:00 a.m. to
21 10:00 a.m. Monday through Friday and 6:00 a.m. to 11:00 a.m. Saturday and Sunday. She
22 stated that condition 5 on page 5 would also be changed to indicate that breakfast may be served
23 daily in the living room, courtyard, and/or porch.

24
25 A motion was MADE and SECONDED (Kuch/Savikas) to **APPROVE** a Master Use Permit
26 Amendment for Modifications to the previously approved alcohol sales and special events at the
27 Shade Hotel, Metlox Site, 1221 North Valley Drive with the clarifications as indicated by staff.

28
29 AYES: Kuch, Savikas, Simon, Chairman O'Connor
30 NOES: None
31 ABSENT: None
32 ABSTAIN: None

33
34 Director Thompson explained the 15 day appeal period and stated that the item will be placed on
35 the City Council's Consent Calendar for their meeting on June 21, 2005.

36
37 **DIRECTOR'S ITEMS** None

38
39 **PLANNING COMMISSION ITEMS**

40
41 **A. Commendation Presentation to Commissioners Kuch and O'Connor**

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16 of
21

Angela Soo

From: vic.law1@gmail.com
Sent: Tuesday, June 23, 2009 9:50 AM
To: List - Planning Commission; %20rthompson@citymb.info
Cc: Angela Soo
Subject: Planning Commissions Item 6/24/09-2. Shade Hotel et al BROAD EXTENSION OF CUP

Dear Honorable Commissioners, Angele Soo and Director:

The undersigned respectfully opposes the application for the modification of the Master Use Permit. The history of abuse to owners and residents of neighboring residences and those further from the Hotel support the consideration of a reduction of the hours, size of events, elimination of dancing, amplified music and use of the roof deck during any evening hours, et al.

The review of the original application for the Master Use Permit indicates it was in was for a "bed and breakfast" and this has become much more invasive on the quality of life for MB residential use than any "bed and breakfast". A four or five star hotel is not what the community understandably anticipated. The noisy decorum at closing time is not typical of four or five star hotels from the perspective of some residents.

The undersigned reserves the right to supplement these comments should it become necessary once the Commission hearing has been reduced to a tape and minutes. Thanks for your generous time given to this matter.

Also it is respectfully noted that the ownership of the applicant and its affiliates has been such a guarded secret, it is a question as to who must recuse themselves among those hearing this matter at the Commission or at any City Council hearings. It is respectfully requested that the individual ownership of the Applicant be made known so that any decisions are made without conflict of interest becoming an issue.

Respectfully submitted,

William Victor
MB Property Owner

11

18 of 21

Laurie B. Jester

From: Laurie B. Jester
Sent: Wednesday, June 24, 2009 10:37 AM
To: List - Planning Commission; Jim Fasola
Cc: Richard Thompson; Angela Soo
Subject: FW: Shade Hotel

FYI

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

From: Laurie B. Jester
Sent: Wednesday, June 24, 2009 10:36 AM
To: 'M Reinhart'
Subject: RE: Shade Hotel

Ms. Reinhart-

Thank you for your comments- I will forward them to the Planning Commission. And to answer your question, no the City has not done a noise study. The hotel does have noise measurement equipment and the police respond to complaints and use the "reasonable person standard" to determine if there is a noise violation.

Laurie Jester

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

From: M Reinhart [mailto:mreinhart@aol.com]
Sent: Wednesday, June 24, 2009 10:05 AM
To: Laurie B. Jester
Subject: Shade Hotel

Hi Laurie,

I live at 1145 Fisher Ave and I am opposed to the increase of hours and occupancy of the roof top deck at Shade Hotel. From inside our home we can hear the noise from the hotel. Has the city done a noise study? If they haven't, I would like to suggest that one is done during different hours and while there are different functions being held at the hotel.

Thanks in advance,

Maria Reinhart

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Angela Soo

From: Laurie B. Jester
Sent: Wednesday, June 24, 2009 12:01 PM
To: List - Planning Commission; Jim Fasola
Cc: Angela Soo
Subject: FW: More Noise

From: Stephanie Hubbard [mailto:steffhubz@verizon.net]
Sent: Wednesday, June 24, 2009 11:49 AM
To: Laurie B. Jester; Richard Thompson; Richard Montgomery; Portia P. Cohen; Wayne Powell; 'Nate Hubbard'
Subject: More Noise

Dear Laurie and Richard,

I just want to go on record one more time before tonight's hearing that I am adamantly opposed to all of Shade Hotel's proposed changes as outlined in your notice of public hearing. Last night we had to call the hotel again at 1am because of noisy patrons standing outside of the front doors facing Valley Drive. We had been listening to them for more than 20 minutes. Nate spoke to Katie at the hotel and she assured him that she had already been outside twice trying to quiet them down. Nate thanked her and let her know that he would be calling the police - which he did. Fortunately for us, someone picked up the noisy patrons a few minutes later. Unless Shade Hotel changes their entrance to the West side of the building, this kind of noisy disturbance will continue to annoy and aggravate the neighbors. The hotel staff admits to us on a regular basis that they can't always quiet down their guests. The idea of adding more patrons and more hours to Shades Use Permit is absolutely ridiculous based on what has been going on there ever since the hotel opened. The fact of the matter is that there is a bar directly across the street from residents. The door to the bar is directly across the street from residents. Bar patrons are noisy. Always have been. Always will be. The ocean breezes blow west, directly toward the residents. This brings all conversation, laughter, and drunken outbursts straight into our bedrooms at night. The noise from the rooftop of Shade is even worse. Please pass these comments on to the appropriate members of the Planning Commission.

Thank you,

Stephanie Hubbard
1300 N. Ardmore Ave.
Manhattan Beach, CA

Corner of Shade/Police&Fire/Ardmore/ 13th Street ☺

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Laurie B. Jester

From: Angela Soo
Sent: Tuesday, June 23, 2009 11:31 AM
To: Laurie B. Jester
Subject: FW: Planning Commissions Item 6/24/09-2. Shade Hotel et al BROAD EXTENSION OF CUP

Hey Laurie,

Did Rich already forward you this e-mail?

Angela Soo
Executive Secretary
Community Development Department
(310) 802-5503

From: vic.law1@gmail.com [mailto:vic.law1@gmail.com]
Sent: Tuesday, June 23, 2009 9:50 AM
To: List - Planning Commission; %20rthompson@citymb.info
Cc: Angela Soo
Subject: Planning Commissions Item 6/24/09-2. Shade Hotel et al BROAD EXTENSION OF CUP

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The undersigned reserves the right to supplement these comments should it become necessary once the Commission hearing has been reduced to a tape and minutes. Thanks for your generous time given to this matter.

Also it is respectfully noted that the ownership of the applicant and its affiliates has been such a guarded secret, it is a question as to who must recuse themselves among those hearing this matter at the Commission or at any City Council hearings. It is respectfully requested that the individual ownership of the Applicant be made known so that any decisions are made without conflict of interest becoming an issue.

Respectfully submitted,

William Victor
MB Property Owner

06/23/2009

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Laurie B. Jester

From: Nate Hubbard [natehubz@mac.com]
Sent: Tuesday, October 20, 2009 1:43 PM
To: Laurie B. Jester
Subject: Oct 28 meeting agenda additions

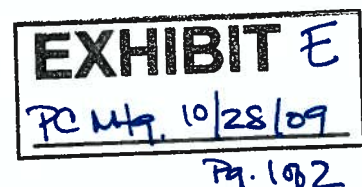
Laurie,

Please remember to arrange for Behrens to play the audio recorded at my house on Sat & Tues one with a skydeck party and the other on a Tuesday night. The volumes should be adjusted so the commissioners hear levels we did during the recordings.

Additionally, please ask Lt John Dye from the MBPD to update the summary of the Shade disturbance calls he presented at the June 24 hearing, as well as explain to the commissioners the PD new policy regarding Shade terrace closing hour.

Please include this email in the commissioner's packets for the October 28 hearing.

Thanks Nate



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



pg. 2 of 2

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

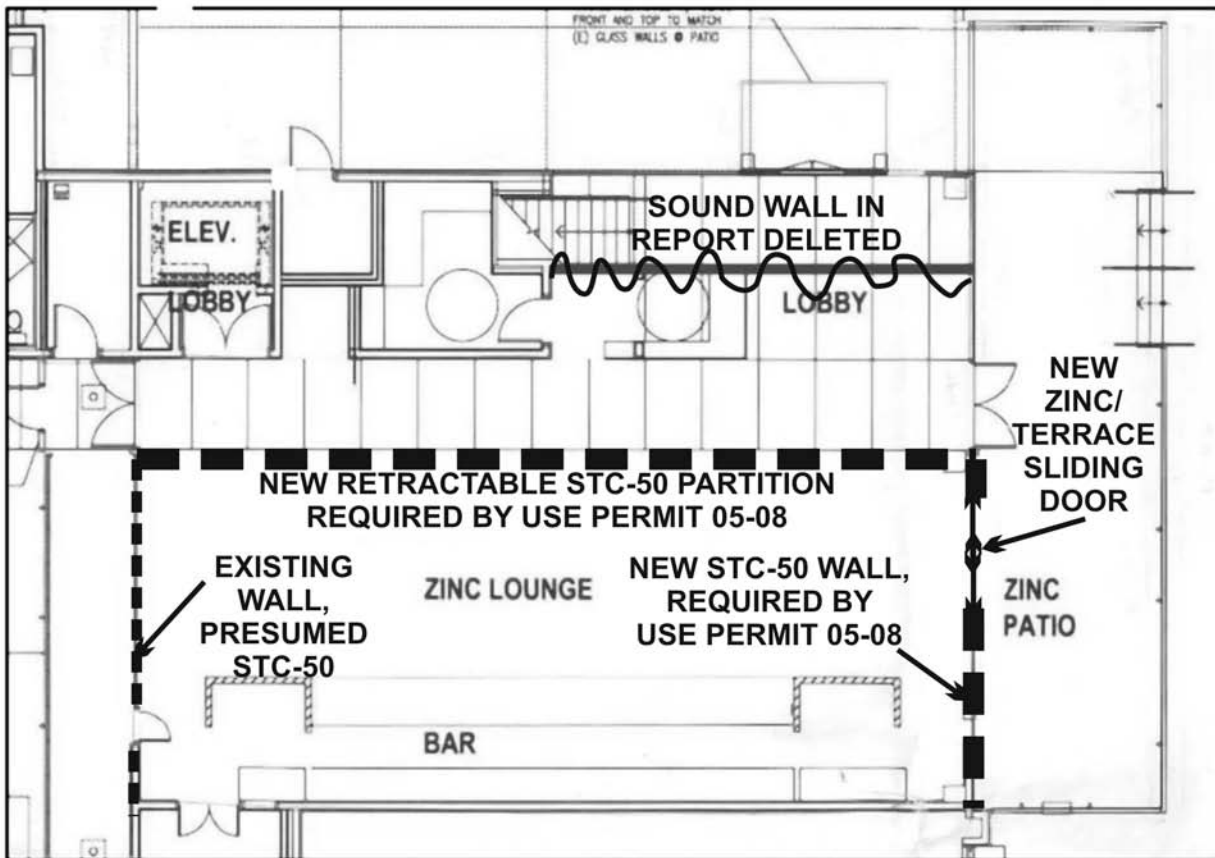
Planning Commission Hearing, October 28, 2009
Nate Hubbard, 1300 N Ardmore Ave, natehubz@mac.com

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 Wisner**, 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; rjmuellem@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

<p>End of staff's two-page attached emails to Hubbard, about Shade disturbance on 19 May 2007</p>
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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; r-jmueller@msn.com; mirelle1212@msn.com; pmuenchow@msn.com; Richard Thompson; 'Mike Zisli'; 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>, <dmtteeth@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" <qdolan@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; djs
haeway2play@webtv.net; dmtteeth@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; 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

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 Krufft; 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 Krufft 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 Krufft'; 'PAUL MUENCHOW'; 'KKrufft@shadehotel.com'
Subject: RE: NEW Shade Hotel- Noise complaint and Jun 8th noise issues

Ms. Krufft...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'; 'rjmuellem@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 ardmore. 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, thankyou.

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 .SO-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.: #1.1limit 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 wirth 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 cit)' 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 pclrking program \$hall 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

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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.

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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**

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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 cell: 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.

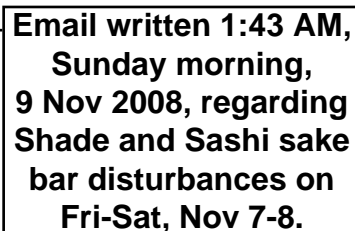
Thanks Laurie

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@Citymb.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

EXHIBIT F

LAYOUT LACKS REQUIRED
STC-50 WALL BETWEEN ZINC AND LOBBY

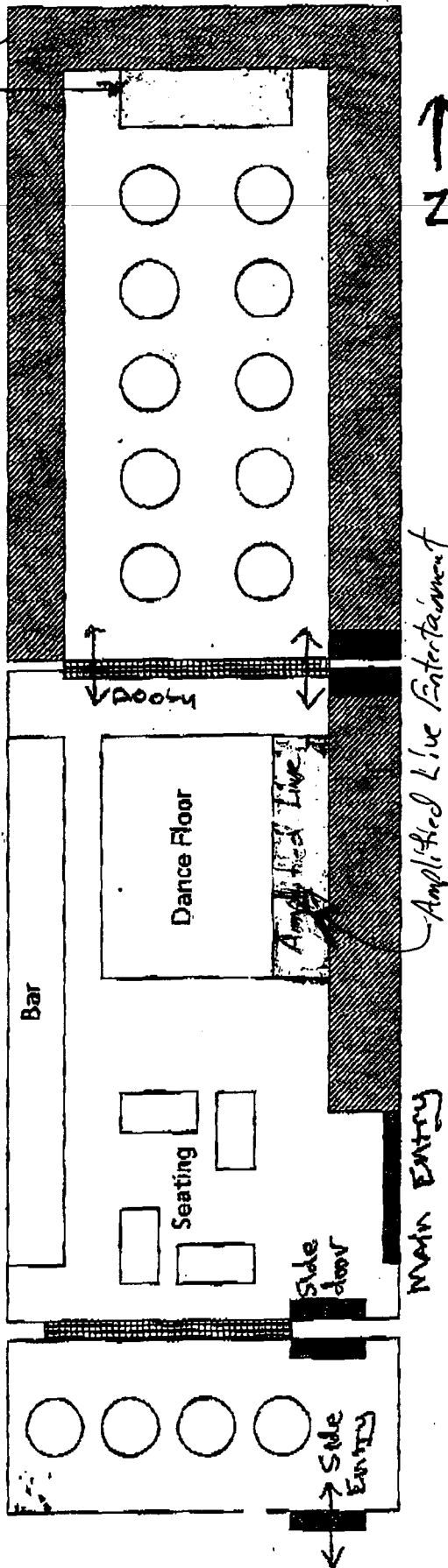
Event Space Layout

Outdoor
Courtyard

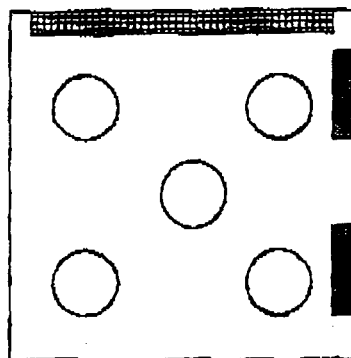
Zinc Lounge

Zinc Terrace

(Max. 6 times
per year,
prior approval)

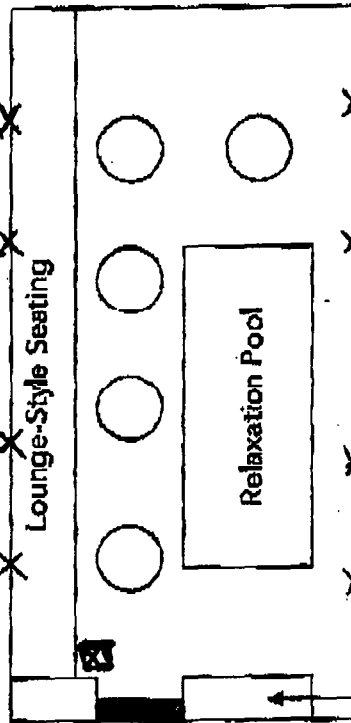


Green Room



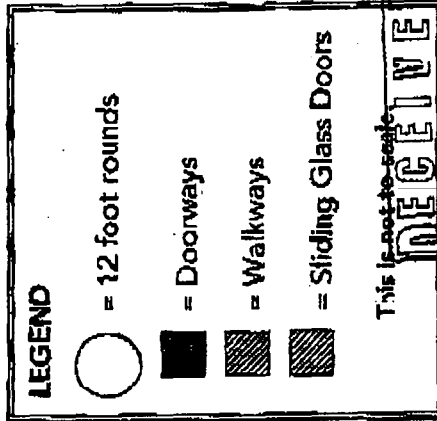
2nd Floor
meeting room

Skydeck



Roof top Pool Deck

X = SMALL SPEAKERS (LIGHT DAYTIME MUSIC)
 [X] = ENTERTAINMENT SPEAKER
 (ON GROUND FACING WEST)



This is not to scale

MECELINE
 MAY 09 2006
 By

EXHIBIT G

MCPHERSON DECLARATION OF SHADE NOISE AND CLOSING TIME VIOLATION OF TERRACE

1
2
3
4
5
6
7
8 I, Donald McPherson, declare:

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

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

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

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

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

23 6. I did not see any patrons leaving the terrace entrance or the front entrance, until after
24 11:30 P.M., and then only a few.

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

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

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



EXHIBIT H

SHADE WEBPAGE PROMOTING 11 PM SKYDECK PARTIES

[HOME](#) [THE SKINNY](#) [AMENITIES](#) [SLEEP](#) [ZINC LOUNGE](#) [PICS](#) [MEET](#) [CELEBRATE](#) [WEDDINGS](#) [SPONSORS](#) [PRESS](#) [CONTACT](#)

shade

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shade business
check out our corporate rates

3 minute video hotel tour



[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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 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 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

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;"> <tr> <td> 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
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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 Octoberfest 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 ● <u>Enforce Finding O in use permit Reso 05-08 that requires Zinc soundproofed to STC-50</u>
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"> ● <u>See last page</u>
5. Skydeck Special Events	<ul style="list-style-type: none"> ● Glass windscreens ● Noise meter here??? 	5.1 <u>4Acoustic 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"> ● <u>See last page</u> ● 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.