



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

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Eric Haaland, Associate Planner 

DATE: February 23, 2011

SUBJECT: Consideration of a Continued Use Permit Amendment to Remodel an Existing Restaurant Including the Addition of Outdoor Dining with Balconies adjacent to Manhattan Beach Boulevard, and Expansion of Operating and Entertainment Hours, on the Property Located at 117 Manhattan Beach Boulevard (MB Dining LLC)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the continued Public Hearing and **APPROVE** the project by adopting the attached resolution.

APPLICANT/OWNER

MB Dining LLC
117 Manhattan Beach Boulevard
Manhattan Beach, CA 90266

BACKGROUND

At its regular meeting of January 26, 2011, the Planning Commission conducted and continued the public hearing for the subject project. The Commission indicated general support for the project, but did not support extended closing times or balcony dining in the right-of-way, and expressed concerns for noise containment and additional dancing. Staff and the applicant were directed to return with additional information including: revised plans, noise control details, and entertainment scheduling concepts.

Since the January 26th meeting, the applicant has provided a partial set of updated plans and a neighbor group has submitted the attached proposal for a complete replacement of the restaurant's use permit conditions of approval.

DISCUSSION

The submitted revised plans show changes including reduced balcony depth, a conventional façade at level 4, and modified entries. Upper level floor plan now shows 18-inch balcony encroachments without seating or dining. This reduced encroachment is still subject to City Council authority. The level 4 floor plan now shows a fixed wall with windows and a single swinging door between the interior bar area and outdoor dining area in response to noise concerns for the dining area becoming an extension of the bar area. The two entry areas have been revised to eliminate a water feature, and partially internalize a fire element.

The applicant has also submitted the attached menu/chef information, and images of some potential door/ window components. Additional details regarding retractable walls or other sound issues are anticipated at the February 23rd meeting.

The neighbor proposal suggests formatting the entire set of use permit conditions similar to the recent Shade Hotel (1221 Valley Drive) use permit, with definitions, multiple noise conditions, detailed closing procedures, etc. Substantial requirement changes suggested by the neighbors include: weeknight closing at midnight, entertainment ending 30 minutes prior to closing, and an engineered noise control rating. Many of the other items appear useful, and may be acceptable to the applicant; however, the Planning Commission's direction was to primarily retain the existing use permit with some specific changes.

The attached draft resolution produced by staff retains the existing use permit format with updated standard restaurant conditions, and modifications addressing issues of entertainment, noise, and hours. A simple addition of weekday breakfast hours with restriction of all deliveries to between 8am to 10pm has been included. The resolution also incorporates the Planning Commission's expressed interest in using the establishment's required annual entertainment permit to schedule entertainment beyond the primary Friday/Saturday events, and also to control general noise and related operations.

The current use permit permits secondary entertainment without dancing on Thursdays and Sundays, and 6 annual special events with entertainment and dancing. The draft resolution includes a simplified compromise between the existing use permit, the applicant's request for additional nights of dancing, and the Commission's desire to modify any additional dancing if necessary in the future. The condition language exchanges all existing Thursday, Sunday, and special event entertainment for one day per week of entertainment with dancing subject to the annual entertainment permit. The entertainment permit would establish the scheduling (or schedule reduction) and details for that secondary dancing each year, or more frequently as appropriate.

Condensing what is currently 120 days per year of allowable secondary entertainment with multiple entertainment permits, down to 52 days per year under a single controlling entertainment permit appears to improve upon possible uncertainty involved in past entertainment scheduling.

The Planning Commission also discussed using the annual entertainment permit process as an ongoing and flexible tool for controlling noise from the establishment. The most prominent items of concern that might need future restriction or adjustment were outdoor dining and retractable walls. The draft resolution requires that all general noise aspects of the business be regulated by the entertainment permit, as well as queuing for waiting customers.

Public Input: In addition to the neighbor proposal for use permit resolution language, staff has received the attached message supporting the neighbor proposal.

CONCLUSION

Staff recommends that the Planning Commission accept additional public hearing testimony, discuss the project issues, and approve the project by adopting the attached resolution.

Attachments:

- A. Draft Resolution No. PC 11-
 - B. P.C. Minutes excerpts, dated 1/26/11
 - C. P.C. Staff report & attachments
 - D. Additional applicant material
 - E. Neighbor resolution proposal
 - F. Recent neighbor message
 - G. Plans (separate - NAE)
- (NAE = not available electronically)

cc: Michael Zislis, Applicant Representative

RESOLUTION NO. PC 11-

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO
ALTER AN EXISTING RESTAURANT ON THE PROPERTY LOCATED
AT 117 MANHATTAN BEACH BOULEVARD (MB Dining LLC/Strata)**

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on January 26, and February 23, 2011, received testimony, and considered an application for a use permit amendment to allow alteration of an existing restaurant including: outdoor dining, operating hours, entertainment, and other building modifications on the property located on the property legally described as Lots 7 & 8, Block 13, Manhattan Beach Division #2., at 117 Manhattan Beach Boulevard in the City of Manhattan Beach.
- B. The applicant for the subject project is MB Dining LLC, the owner of the property.
- C. The applicant had also requested extended closing times of 2am, increased frequency of dancing by two days per week, and balcony dining within the public right-of-way; but these requests were not approved by the Planning Commission, due to concerns for increased disruption to the surrounding area and the Manhattan Beach Boulevard right-of-way.
- D. The project is Categorically Exempt (Class 1, Section 15301) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of an existing facility.
- E. 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.
- F. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that serve city residents, and are buffered from residential areas.
- G. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential uses. The use is permitted by the zoning code and is appropriate as conditioned for the Downtown commercial area.
- H. Approval of the restaurant use, subject to the conditions below, 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 since the use is primarily existing in a central Downtown beach/pier oriented location, expected to increase focus on food service, and limited by operation hours that are reasonable restaurant hours for this commercial area.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code as well as specific conditions contained herein further regulating the project.
- J. The restaurant will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities, since it has existed at the subject location, is appropriately located within a commercial area, and is conditioned herein to prevent possible adverse impacts.
- K. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject restaurant and supersedes all previous use permit resolutions pertaining to the restaurant use.



Resolution No. PC 11-

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions (* indicates a special condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans (on 1/26/11 with specified revisions on 2/23/11) and project description as approved by the Planning Commission on February 23, 2011. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all 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 delivery of materials and parking of construction related vehicles.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, grease interceptors, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.
5. Exterior equipment, antennas, etc., shall be appropriately screened and compliant with applicable regulations.

Operational Restrictions

6. * The management of the restaurant shall police the property in all areas immediately adjacent to the business during the hours of operation, and one hour after closing each night, to keep it free of litter.
7. * The business proprietor shall provide adequate management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of patrons outside the business or in the immediate area. Any queuing of customers waiting to enter the establishment shall be prohibited from occupying Ocean Drive or Center Place, and shall be managed in compliance with the direction of the Police Department and the establishment's Group Entertainment Permit.
8. * Hours of operation shall be limited to 8am to 1am daily. Alcohol service shall cease at 12:40 nightly. Deliveries and other loading, truck idling, etc., occurring outside of the building shall be prohibited between 10pm and 8am nightly.
9. * The service of alcohol shall be in conjunction with minimum food service during all hours of alcohol availability, and "bona fide eating place" type of alcohol license from the State of California shall be maintained. Minimum food service shall consist of a menu of similar variety to the "all hours" menu on file. Full menu food service shall be available at the bar seats during all hours of operation.
10. * Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance and the restaurant's Group Entertainment Permit. Any outdoor sound or outdoor amplification system or equipment is prohibited. No operable windows or similar openings shall be located on the north, west, or east sides of the restaurant. All doorways and windows for the business shall remain closed at all times during entertainment or dancing. Noise from the business shall not be audible beyond 75 feet of the subject site as determined by the Police Department.

11. * Dancing and entertainment other than background music or television shall be limited to level 1 as shown on the submitted floor plans as follows:
 - A. Entertainment and dancing on Fridays and Saturdays.
 - B. A maximum of one entertainment/dancing event per week shall be permitted subject to an approved schedule and restrictions contained within the approved Class I Group Entertainment Permit. The quantity, timing, or other restrictions of these additional events shall be subject to change by the Community Development Director with a minimum of 21 days notice to the owner/operator.
12. * A Class I Group Entertainment Permit shall be obtained for all entertainment and noise aspects of the business. Should entertainment, outdoor dining, window/door openings, etc. be determined to be detrimental to the surrounding area, said permit shall be revoked or revised under administrative authority without prejudice to the remaining conditions of approval. Staff decisions regarding Group Entertainment Permits are appealable to the City Council.
13. The service of food and beverages shall be primarily by employees to customers seated at tables, and there shall be no take-out windows.
14. Utilities serving the site shall be underground, pursuant to City ordinance.
15. All site nuisance and storm water, including roof drainage, shall be contained on site and outletted through the curb on Manhattan Beach Boulevard as approved by the Director of Public Works. All existing exterior drains shall comply with applicable sewage requirements prior to implementation of this Uwe Permit Amendment, subject to review and approval of the Department of Public Works.
16. * A trash storage area, with adequate capacity shall be available on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. The trash enclosure shall have a roof, sewer drain, and all other Public Works specifications. A trash and recycling plan shall be provided and implemented as required by the Public Works Department.
17. * The roof area above the parking area shall maintain the existing parapet wall along the west and east of a height not to exceed three feet above the abutting roof surface. No use or activity shall occur on this roof area except for maintenance purposes. Access to this area shall be by ladders or a maintenance hatch.
18. * All signs shall be in compliance with the City's Sign Code. The maximum total sign area permitted for the site shall be 50 square feet. All signs shall be located within 30 feet of the southerly property line. Pole signs and internally illuminated awnings shall be prohibited.
19. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
20. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.
21. Parking for the site shall be in conformance with the Manhattan Beach Municipal Code and Local Coastal Program. Four parking spaces shall be provided on-site. The on-site parking spaces shall be marked and monitored to prevent conflicts with the public right-of-way.

Procedural

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

Resolution No. PC 11-

23. * This Use Permit Amendment shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
24. 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.
25. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
26. * At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of February 23, 2011 and that said Resolution was adopted by the following vote:

AYES: ,

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary

Chairman Fasola commented that he does not want the hearing to become a forum for a political debate.

Mr. Ngo requested that Commissioners Lesser, Paralusz and Fasola recuse themselves from considering the public hearing being discussed at this meeting, as they have a conflict of interest with **Michael Zislis**, who is the applicant. He requested that the Commissioners disclose any relationship or political contributions received from **Mr. Zislis**. He said that it is required by law that the Commissioners disclose any financial relationship or contributions to avoid any conflict of interest.

Ester Besbris said that a forum for the City Council candidates will be held by the Manhattan Beach Residents Association in the Council chambers on February 10, 2001, between 7:00 p.m. and 8:30 p.m. She said that she believes it will be televised live. She said that they are encouraging questions from members of the community which can be submitted to yourmbra@gmail.com or by phoning (310) 379-3277.

Bill Victor pointed out that it is appropriate for members of public bodies to disclose if they have had any contact or received contributions from applicants or participants that are involved in a matter being considered. He said that **Mr. Ngo's** request that the Commissioners disclose if they have received any contributions from parties involved in the public hearing that is before the Commission does have merit.

4. PUBLIC HEARINGS

01/26/11-1 Consideration of a Use Permit Amendment to Remodel an Existing Restaurant Including the Addition of Outdoor Dining with Balconies Adjacent to Manhattan Beach Boulevard, and Expansion of Operating and Entertainment Hours, on the Property Located at 117 Manhattan Beach Boulevard

Commissioner Lesser indicated that he does not have a financial interest in the subject project and has not received any donations from the applicant.

Commissioner Paralusz commented that she has no financial interest in the applicant's business. She commented that the applicant did contribute to her political campaign two years ago when she ran for the City Council in 2009; however, she does not feel that it has affected her ability to be fair and impartial in any matters that have been before the Commission. She said that she is willing to recuse herself and said that she would defer to the opinion of the other Commissioners as to whether they feel it would be appropriate.

Chairman Fasola said that it is Commissioner Paralusz's choice as to whether she feels she should recuse herself from considering the issue. He stated that his understanding is that a



Commissioner should not participate in consideration of an issue if they have a financial interest in the project that is being considered.

Commissioner Paralusz said that she does not have a financial interest in any property owned by **Mr. Zislis**.

Commissioner Seville-Jones stated that there is not a legal requirement for Commissioner Paralusz to recuse herself, and it is her decision if she feels it would be appropriate.

Commissioner Lesser said that he does not believe that Commissioner Paralusz has a legal obligation to recuse herself, and it is up to her discretion.

Commissioner Paralusz pointed out that the contribution to her campaign from **Mr. Zislis** has been in the public record for over two years. She said that she believes she can be fair and impartial in considering the subject application. She indicated that she appreciates the support of the other Commissioners regarding her ability to be impartial. She said that she will consider the issue and that she will continue to work hard to evaluate the issues fairly on the basis of the law and public input in order to arrive at a Resolution that benefits everyone.

Director Thompson said that a Use Permit was approved for the site in 1994, and there have been different restaurants that have relied on the permit over the years. He indicated that the permit established the hours of operation, provisions for entertainment, and many other restrictions. He indicated that the item is before the Commission because of the additional changes being proposed by the applicant for a new restaurant.

Associate Planner Haaland said that the proposed remodel includes requests for the expansion the hours and entertainment. He indicated that the proposal includes outdoor dining; balconies that would project over the Manhattan Beach Boulevard sidewalk; enlarging of the exterior entries; relocation of the dance floor; the installation of retractable walls along Manhattan Beach Boulevard; and the addition of a basement wine cellar. He stated that the current permitted hours of operation are until 1:00 a.m., and the applicant is proposing to close at 2:00 a.m. on Friday and Saturdays. He indicated that the applicant is also proposing to extend the operating hours on weekday mornings to open at 8:00 a.m. for breakfast. He commented that dancing is currently permitted on Friday and Saturdays, and the proposal is to also allow dancing on Thursday and Sunday nights and nights before holidays. He stated that the proposal is also to increase the number of special events that are permitted per year from 6 to 12. He pointed out that no addition of square footage is proposed to the building. He indicated that the project does conform to the City's applicable Code requirements.

Associate Planner Haaland said that the previous use on the site did not include outdoor dining, and the Use Permit requires that the operation remain within the enclosed building. He stated that the existing building has a partial retractable roof. He indicated that the proposal includes

retractable walls, windows and doors at the front of the building. He commented that the balconies with dining are proposed to extend 3 feet over the sidewalk along Manhattan Beach Boulevard into the City right-of-way. He pointed out that it is normal to allow canopies and awnings to encroach over the sidewalk, but it is not typical for a balcony. He said that the only example of a balcony encroaching into the right-of-way is at a building next to the subject site. He commented that there are no other examples of dining areas in the downtown that encroach on a balcony within the City right-of-way. He stated that the Encroachment Code does permit the City Council to approve atypical projections.

Associate Planner Haaland stated that the proposal is for hours of operation until 2:00 a.m. on weekends. He commented that it was routine to allow restaurants to be open until 2:00 a.m. prior to the 1990's; however, the latest hours that have been approved generally since that time have been 1:00 a.m. He indicated that the applicant is also proposing to open at 8:00 a.m. for breakfast service on weekdays. He said that breakfast service generally has not been a concern with most applications. He commented that the applicant is requesting that dancing be permitted on Thursdays and Sundays and on nights prior to holidays in addition to already being permitted on Friday and Saturday nights. He said that the applicant has pointed out that the prior operation at the subject site did include dancing on Thursday and Sunday evenings, although it is not allowed in the existing Use Permit. He indicated that the dance floor has been required to be definable and separated from the additional dining area on the main floor. He stated that the applicant is proposing to move the dance floor to a more central location and have dining area on either side of the dance area. He commented that with the configuration of the proposed design, it would not be feasible to include a railing to separate the dance area from the dining area. He indicated that the applicant is also requesting to increase the number of special events that are permitted from 6 to 12 per year. He stated that comments that were received from one neighboring resident have been included in the staff report, and comments that were received after the staff report was distributed have also been provided to the Commissioners.

In response to a question from Commissioner Lesser, Associate Planner Haaland said that the goal of the City Council for the last 20 years has been to be more restrictive regarding closing times for restaurants. He indicated that outdoor dining in the downtown area has been encouraged as a result of the downtown strategic plan.

In response to a question from Commissioner Lesser, Associate Planner Haaland said that the patrons of the former operation on the subject site parked in the downtown public parking lots and metered parking on the adjacent streets. He pointed out that the proposal does not generate an additional requirement for parking per Code. He commented that the proposal would actually include a reduction in dining area from the previous operation on site.

In response to a question from Commissioner Lesser, Associate Planner Haaland indicated that the Commission should determine whether they feel the proposed encroachment of the balcony

over the public right-of-way is appropriate for the subject use and whether it would be detrimental to the surrounding area. He indicated that the City Council will review the comments of the Commission and has the deciding authority on whether or not the encroachment is approved.

Director Thompson pointed out that the reason the encroachment for the balcony is before the Commission is because it is included in the overall restaurant use and relevant to the Use Permit. He said that staff felt that it would be appropriate for the Commission to review whether or not they feel the encroachment should be permitted. He commented that staff does not have a major concern with allowing the balcony. He stated that there are projections from the roofs of other structures on Manhattan Beach Boulevard. He said that the proposal for the balcony is unique because it would be used for dining. He commented that the City Council will ultimately make the decision as to whether or not the projections are approved. He said that Petros is an example of a restaurant that is able to serve liquor on City property within the Metlox property. He indicated that their outdoor dining area is separated by a railing.

Chairman Fasola commented that his understanding is that the Building Code limits projections over the public right-of-way to non structural awnings and canopies. He asked whether the proposal for the balcony has been reviewed by the Building Department.

Associate Planner Haaland indicated that the Building Department reviewed the proposal and did not provide any specific comments regarding the balcony projection.

Commissioner Lesser asked regarding the possibility of requiring that the sliding retractable windows and the balcony area be closed after a certain hour.

Associate Planner Haaland said that there is a condition in the current Use Permit that all window openings be closed while entertainment is occurring. He commented that all entertainment would occur on level one. He indicated that the applicant is proposing that the windows be closed while entertainment is occurring.

In response to a question from Commissioner Lesser, Associate Planner Haaland said that he does not have any information regarding the requirement of Shark's Cove to close their windows after a certain hour in order to contain noise.

Commissioner Lesser commented that he would like further information as to whether Shark's Cove is required to close their windows after a certain hour and whether there is a record of any complaints regarding noise from that establishment.

Commissioner Seville-Jones commented that walking under a balcony would seem to be quite different than walking under an awning or canopy.

In response to a question from Commissioner Paralusz, Associate Planner Haaland stated that the applicant has discussed requirements and conditions for this project that are influenced by their experience with The Shade.

Director Thompson indicated that he feels staff has learned a great deal with The Shade project, and appropriate conditions would be placed on the subject proposal in order to avoid the same issues from occurring.

In response to a question from Chairman Fasola, Associate Planner Haaland indicated that the proposed basement area would be new. He pointed out that the basement area would be used for storage and would not be countable as square footage. He said that the area would likely be greater than 100 square feet.

In response to a question from Chairman Fasola, Associate Planner Haaland commented that there has not been any staff experience with the previous operator on the subject site having special events. He indicated that each event would be reviewed and would have conditions.

Director Thompson said that staff is not specifically concerned with special events but rather regarding noise impacts from the operation in general.

In response to a question from Chairman Fasola, Director Thompson indicated that staff has not received complaints regarding noise along Manhattan Beach Boulevard since greater restrictions have been placed as new Use Permits have been approved.

In response to a question from Chairman Fasola, Associate Planner Haaland indicated that he is not aware that Simzzy's has received any noise complaints.

In response to a question from Commissioner Lesser, Director Thompson said that the City works with the Department of Alcohol Beverage Control (ABC) to regulate conditions of the alcohol license. He stated that the City ensures that the conditions are enforced whether it is the jurisdiction of the City or the ABC. He commented that staff feels it is important to place language in the Use Permit requiring that alcohol be served in conjunction with food service in order to provide a condition that can be enforced by the City.

Michael Zislis, the applicant, pointed out that there is no request in the proposal for expanded entertainment, and the proposal actually includes a reduction. He commented that current permit allows hours of operation until 1:00 a.m. every night. He commented that they are seeking clarification in the hours of operation that entertainment and service would end at 1:00 a.m. and the restaurant would be shut down by 2:00 a.m. on weekends. He said that they have proposed the balconies to compensate for the loss of square footage in the building as a result of providing for handicapped access elevators and expanding the kitchen. He commented that he would plan to keep the retractable roof if he is not permitted to have the balcony. He indicated

that he is asking to allow for 12 special events per year with dancing permitted until 11:00 p.m. on the lower level. He said that the dance floor is a separate defined area, and the stereo speakers are around the dance area.

Mr. Zislis commented that they are discontinuing the use of the northwest corner, which would improve the view corridor toward the pier. He said that they are proposing to move the air conditioners to the parapet, and the area could not be used for people to gather. He indicated that they are proposing to enclose the trash area. He commented that they also plan to allow the trash enclosure to be used by all of the restaurants on the alley. He stated that they have agreed to change the loading from the alley to Ocean Drive. He indicated that the windows are all double glazed to provide sound mitigation. He stated that they have eliminated dancing on the upper level and have reduced the size of the bar on the upper level. He said that they have added three bathrooms. He commented that they have enlarged the kitchen by 25 percent. He said that the menu will be upper scale with a high end wine list. He indicated that the ceiling and walls will be sound absorbing. He pointed out that he has received complaints at his other operations but has never received a citation for a violation. He indicated that the previous operators at the subject site were not responsive to the neighbors in the past when there were problems. He stated that he has been responsive to noise problems regarding The Shade. He said that they have designed the restaurant with consideration to noise concerns. He commented that he met with a group of about 16 neighbors and later met with three of the neighbors to draft a document listing mitigation measures. He indicated that he agreed not to open at 8:00 a.m. for breakfast during the week due to the concerns of the neighbors.

Mr. Zislis said that currently dancing is permitted until 1:00 a.m. every night. He indicated that they plan to do last call at midnight during the week and 1:00 a.m. on Friday and Saturday nights. He said that he is asking for clarification of the hours so that there is no confusion regarding enforcement. He commented that the previous use has been allowed to operate until 2:00 a.m. on the weekends for the past 40 years.

In response to a question from Commissioner Lesser, **Mr. Zislis** indicated that the intent was to include in this application that last call on the weekends would be at 1:00 a.m. with the last drink being served at 1:20 a.m. He indicated that exiting customers all at one time would result in them congregating on the sidewalk outside of the restaurant. He said that the previous operator served drinks until 2:00 a.m. on weekends.

Chairman Fasola pointed out that the Use Permit specifies hours of operation are permitted until 1:00 a.m. regardless of whether the previous operator was in violation by serving until 2:00 a.m.

Mr. Zislis said that his intent is that a clear definition of closed be specified.

Commissioner Seville-Jones stated that the Use Permit states that the hours of operation for the restaurant shall be until 1:00 a.m., which suggests that everyone should be out of the restaurant by 1:00 a.m.

Mr. Zislis commented that allowing hours of operation until 1:00 a.m. does not mean the same as being closed at 1:00 a.m.

Mr. Zislis indicated that he is proposing to limit live entertainment to end at 11:00 p.m. He said that he feels the dancing floor is a great addition to the downtown area. He pointed out that the subject site is centrally located in the downtown area, and the neighbors purchased their properties knowing that the restaurant was located on the site. He commented that he is trying to mitigate any impacts to the neighbors from the previous operation.

In response to questions from Commissioner Lesser, **Mr. Zislis** said that he would not want to give up the current rights he has to operate until 1:00 a.m. He said that they agreed to place the use of the balcony under the Entertainment Permit so that it could be changed if there was an issue with noise to the neighbors. He said that he would like for any decision regarding adding a condition that the doors be closed after a certain hour to be considered 90 days after opening. He said that placing those items in the Entertainment Permit would allow staff the flexibility to change the requirements if there are noise impacts to the neighbors. He suggested that the allowance for 12 special events could also be placed in the Entertainment Permit. He commented that valet service is not permitted in the area because it would result in additional cars in the adjacent neighborhood.

In response to a question from Commissioner Paralusz, **Mr. Zislis** stated that the retractable roof would be changed to a solid roof if the proposed balcony is permitted for the project. He indicated that he has met with about 15 neighbors to discuss the project, and three neighbors helped to draft the document that is before the Commission.

At 8:00 a five minute recess was taken.

Chairman Fasola opened the public hearing.

Jim Quilliam, a Manhattan Beach resident, said that they did meet with the applicant, and no formal agreement was made. He said that the plans appear to be inconsistent and incongruent with the discussion that occurred at the meeting with the neighbors. He indicated that **Mr. Zislis** indicated that there would be a greater emphasis on food service; however, the plan shows three or four levels of bars and cocktail lounges. He indicated that that the plan is for increased music, dancing and special events. He said that a review of the plans would indicate that the priority is not for higher end food service but rather for a party establishment that would include more special events. He stated that the intent appears to be to create a higher end party environment.

Mr. Quilliam stated that the main concern is the well being of the residents in the adjacent neighborhood who will be impacted by the project for many years into the future. He commented that they are asking the Commission to consider minimizing any noise and quality of life impacts. He said that they are requesting that the days and hours for music and dancing be restricted and that any open areas be restricted. He commented that they could hear the music from the previous operation at the site clearly from their living room and bedroom with their windows closed. He stated that their letter they have provided to the Commission has outlined 15 items that they wish to have included in the Use Permit. He pointed out that Strata is a new business which must earn the trust of the adjacent neighbors. He indicated that they want to find solutions that will allow the business to be successful and allow all of the neighbors and the applicant to live in the community together.

In response to a question from Commissioner Lesser, **Mr. Quilliam** said that the retractable roof was always closed before any entertainment started. He indicated that his preference would be for any open area to be away from the residents if he had to choose between having the retractable roof and balcony area.

Allen Selner, a resident of the 1000 block of The Strand, commented that his home is adjacent to the subject property, and he has never had an issue regarding noise from the operation of the previous establishment on the site. He said, however, that the establishment can attract a certain type of people that stay in the area late at night. He indicated that the patrons of the previous establishment did not necessarily leave the area after the restaurant was closed. He indicated that people standing on the street would make noise until 3:00 a.m. He indicated that with children living in the area, he was concerned about the character of the people that would loiter in front of the restaurant. He indicated that the type of patrons that visit the restaurant and how they are directed after the restaurant closes are issues that need to be mitigated. He indicated that no noise from the dance floor of the establishment would reach the neighbors with soundproof glass; however, there can be a great deal of noise impacts to the neighbors from patrons loitering on the street. He pointed out that outdoor dining is a great asset which makes the City unique, and it would work very well with soundproofing.

In response to a question from Commissioner Paralusz, **Mr. Selner** said that the previous operators made efforts to attract a younger college crowd who would spend money drinking. He commented that there were buses with young people that came to the establishment. He commented that he understands, however, that the new restaurant would not attract the same young crowd. He said that there was no security provided on the outside of the previous establishment. He said that he understands with the money being put into the establishment that they would not want the behavior of the patrons to become an issue. He said that the previous operation represented the prior character of the downtown area as a bar type of atmosphere.

Bill Victor said that the echoes of noise can spread through a neighborhood, and there is no method of determining the type of patrons that would visit the restaurant. He commented that the operators of The Shade have not responded to all of the noise complaints. He indicated that the subject establishment would not be good for the community. He said that the facility should not have open windows and doors facing the residential area.

Steve Wible, a resident of the 1200 block of Ardmore Avenue, said that the neighbors adjacent to The Shade have spent five years dealing with the lack of enforcement regarding the noise impacts from the establishment. He said that the conditions of the Noise Ordinance are still not enforced regarding The Shade. He said that the City allowed some of the noise abatement materials to be eliminated from The Shade which has contributed to the noise problem in the adjacent neighborhood. He indicated that he assumes that the neighbors adjacent to the subject establishment would have similar problems. He indicated that there is no enforcement by the City of the conditions of the Noise Ordinance. He commented that there needs to be enforcement of the Noise Ordinance. He indicated that the neighboring residents of The Shade have spent their own money attempting to solve the noise issues.

Annette Davis, a resident of the North End, said that extending the rights of business operators creates greater impacts to the adjacent neighbors. She commented that once restrictions are eased, the residents must go through the process of making sure they are enforced. She said that it is very predictable that there will be complaints from the neighbors regarding noise if the balconies are permitted. She pointed out that it is difficult to make the conditions of a Use Permit more restrictive after they have been approved. She commented that dancing creates a lively atmosphere, and people who have been dancing create a great deal of noise when they leave an establishment. She commented that sound from the balconies would travel and project out into the neighborhood and disturb the residents. She indicated that she agrees that the STC 50 noise standard should be required.

Wayne Partridge said that the downtown area previously became a nightclub and bar venue until the City Council changed the restrictions. He commented that the subject establishment is not primarily a restaurant use as has been suggested by the applicant. He indicated that the proposal includes a large amount of bar area and includes too many opportunities for tables to be moved away from the dining area. He said that he is opposed to allowing open windows. He said that even noise experts are not able to determine all noise impacts until a structure is built, and there is a high probability that sound would emanate out from the windows at the upper levels and create a major problem in the neighborhood. He stated that a condition should be included that the windows must be closed by a certain hour if they are allowed. He said that the conditions need to be very clear and well defined in order to allow for enforcement. He indicated that the existing Conditional Use Permit requires that the restaurant be closed at 1:00 a.m., and there is no basis for the interpretation of **Mr. Zislis** that the operation is permitted to close at 2:00 a.m. He commented that having a larger number of bar stools increases the parking demand. He suggested placing the issues regarding operation that may require

modification as part of the Entertainment Permit which can be changed and revoked rather than becoming an entitlement in the Use Permit. He said that it should also be made clear that the Entertainment Permit is revocable and can be changed by the City if there are problems with the operation.

George Kaufman, a resident of the downtown area, said that he echoes the comments of **Mr. Partridge**. He indicated that he does not agree with the position of **Mr. Zislis** that the closing time automatically becomes an hour later because dancing is allowed until 1:00 a.m. He pointed out that restrictions need to be placed on the restaurant now, as they are difficult to add after the operation has been approved. He said that a requirement should be included that the windows need to be closed after a certain hour if they are permitted, as it would be difficult to monitor a condition only that they be closed at times when entertainment is occurring. He also commented that there is a good chance that the entertainment would occur during times with warm weather when it would be desirable to have the windows open.

Candee Wilson Gerson, a resident of the 100 block of 12th Street, said that she moved to the downtown area knowing that there were restaurants and establishments that have music in the area. She commented that **Mr. Zislis** has been a good neighbor. She indicated that she is looking forward to a nice and updated establishment at the subject site. She said that it is expected to have some noise in the downtown area.

Kathy Smith, a resident of the 100 block of 10th Street, commented that there is a good chance that the noise from the establishment with open areas facing onto Manhattan Beach Boulevard would impact the nearby residents. She indicated that there have been noise problems to the residents that have resulted from the operation of Muchos, which has open areas along Manhattan Avenue. She said that noise is difficult to control. She commented that the previous issue of people leaving bars late at night and creating a disturbance to the nearby residents has been under control. She said that placing tight restrictions is the best method to ensure that there are not impacts from the subject establishment.

Jackie May, a resident of 10th Street, indicated that she lives close to Simzzy's and Shark's Cove which include open areas. She indicated that she can hear the noise from Shark's Cove from her home and believes she also hears noise from Simzzy's. She commented that there are unsavory people around in the neighborhood and not only at the subject site. She commented that she has a question as to the number of employees of the subject establishment and where they would park. She indicated that parking for the subject establishment needs to be considered, as it could become very busy. She pointed out that the establishment as proposed would have three open walls on the south side with a balcony. She said that Petros has dining on the sidewalk which is separated from the main public walkway and is a different situation than the subject project.

Don McPherson, a resident of the 1000 block of 1st Street, said that the STC 50 soundproofing standard should be required for the project, which would help to mitigate noise when the windows and doors are closed. He commented that the standard is required by many cities for hotels, restaurants, and nightclubs, and he would suggest that the standard should be included in the Building Code for Manhattan Beach. He suggested that the standard should be required and that occupancy of the site not be allowed until it is certified that it has been met. He said that the applicant must prove that the noise outside of the establishment does not exceed 60 decibels after 10:00 p.m. as required by the Municipal Code. He commented that the direction of the Commission regarding the environmental report for the project is very important because the report must be approved by the Coastal Commission. He suggested that the Commission deny extended hours on Friday and Saturday nights; dancing on Thursdays, Sundays, and the nights before holidays; increased special events; and the two upper level balconies.

Mr. McPherson pointed out that finding 4 of the original Use Permit allowed for increased entertainment with the condition that the operating hours be limited to 1:00 a.m. He indicated that the applicant should not provide music and dancing if he wishes to operate until 2:00 a.m. He said that the Planning Commission in 2009 denied waivers to Use Permits to allow extended operating hours for restaurants on the nights before holidays except for New Year's Eve. He indicated that **Mr. Zislis** has changed special events to be undefined. He commented that there is no reason to have special events at the subject establishment, as weddings and parties would be permitted as long as they remain within the parameters of the Use Permit and Entertainment Permit. He indicated that the proposed balconies that would project over the sidewalk would not possibly comply with the Noise Ordinance and would be denied by the Coastal Commission. He suggested that the Commission deny the balconies.

Lisa Polumbo, a resident of the 1100 block of The Strand, asked that conditions be imposed to mitigate concerns with noise and expanded hours. She said that she has a concern that there would be little ability to make changes once the use is approved if the neighbors have problems. She commented that **Mr. Zislis** previously indicated to the adjacent residents that he was definitely planning to remove the retractable ceiling; however, he stated at this hearing that he would keep the retractable ceiling if the balconies are not approved. She said that **Mr. Zislis** also agreed not to serve breakfast at 8:00 a.m. during the week. She said that she is concerned that deliveries would be made during early hours in the morning. She commented that they could hear the noise of the staff cleaning up after closing with the previous establishment. She indicated that extended hours could create an impact to the adjacent residents. She commented that there are many children who live in the neighborhood. She suggested that the conditions be placed in the entertainment permit so that they can be altered if there are problems.

Elena Marshall, a resident of the 1100 block of The Strand, said that the establishment would be open on weeknights as well as weekends, and she is concerned about noise which would make it difficult to get enough sleep.

Veronica Marshall, a resident of the 1100 block of The Strand, said that it is hard to do homework and to get enough sleep with hearing the music playing at the establishment.

Brooks Marshall, a resident of the 1100 block of The Strand, said that their primary concern is regarding the noise impacts that would result from the establishment. He said that their children's bedrooms face south directly toward the subject property. He indicated that they have met with **Mr. Zislis**, and he appears genuinely concerned with the noise impacts to the neighbors. He said that he does believe that **Mr. Zislis** is doing what he can to accommodate the neighbors. He commented that including double pane glass windows on the establishment will help to mitigate noise; however, he would like for there to be some recourse if there still is an issue regarding noise. He also suggested including approval of the balconies as part of the Entertainment Permit so that they can be changed if there is a problem. He stated that he would not want extended hours until 2:00 a.m. on weekends or dancing on Thursday and Sunday evenings to be approved; however, his main concern is generally regarding noise. He said that he would be supportive of the project if the soundproofing does mitigate the noise impacts.

Viet Ngo said that **Mike Zislis** has formed the Zislis Group with between 50 and 60 members, and the Commissioners must disclose any association or financial ties with his group. He said that **Mr. Zislis** has been taking money from the community with the help of the Commission by their decisions regarding The Shade. He commented that he has a letter from the City Attorney that confirms that **Mr. Zislis** has no agreement with the City; however, **Mr. Zislis** has falsely testified that he has paid the City \$300,000.00 per year. He said that the Commission has accommodated **Mr. Zislis** and helped him to take public money, and the Commissioners will not be entitled to immunity for any action that is brought against them. He said that the Commissioners must disclose whether they have an interest in **Mr. Zislis'** projects.

Mr. Ngo said that the property has already changed ownership, and **Mr. Zislis** has violated the Code by already beginning construction on the site without a permit. He pointed out that the City stopped construction for the project at 3404 The Strand that was not permitted but has not stopped construction on the subject site that has not been permitted. He said that the current proposal should be denied because there is clear evidence that **Mr. Zislis** has violated the Code. He said that the Commissioners are part of the criminal conspiracy and have not stood up for the community out of greed. He said that the Commission should order staff to stop construction on the site and refer the issue to the City Attorney for prosecution.

Mr. Zislis said that **Mr. Ngo's** comments were a threat to the Commission and slanderous to him. He pointed out that he has obtained building, demolition, structural and shoring permits for the subject site and has not proceeded with construction illegally. He pointed out that a typical wall has an STC rating of 42, and double pane glass has an STC rating of between 45 and 54. He indicated that all of the glass used for the project will be double pane glass. He stated that they would be willing to have dancing on Thursday on Sunday nights be approved as part of the Entertainment Permit which could be reviewed and taken away if it is found to

create a problem for the neighbors. He commented that they would be willing to have a restriction on times for deliveries by vendors to the site. He suggested that deliveries not be permitted prior to 9:00 a.m. in the alley. He said that he wants the establishment to be open to the outdoors and would want to keep the ability to open the retractable roof if the balconies are not permitted. He said that he purchased the property with the rights that were previously approved as part of the existing Use Permit. He commented that he has proposed modifications to the conditions to help the neighbors. He stated that he would like for the project to move forward as quickly as possible. He suggested that the proposal to have open doors along Manhattan Beach Boulevard could also be placed in the Entertainment Permit and could be taken away if there is too much noise.

Chairman Fasola closed the public hearing.

In response to a question from Commissioner Paralusz, Director Thompson indicated that the Entertainment Permit would be reviewed before a year if noise issues become a problem, and staff would respond immediately to any complaints that are received. He said that language could also be added for review in 90 days.

In response to a question from Commissioner Lesser, Director Thompson pointed out that the current Use Permit is fairly well structured, and many of the items such as hours of operation are best included as part of the Use Permit rather than the Entertainment Permit. He commented that the Commission can adjust the operating hours as they feel appropriate. He said that he is not sure that there should be a great deal of flexibility with the hours of operation or with the hours during which liquor can be sold. He indicated that the Entertainment Permit could include the hours which live entertainment may occur.

The Commissioners agreed that they would support keeping the existing permitted hours of operation and would not support extending until 2:00 a.m. on weekends.

Commissioner Lesser commented that he would support retaining dancing on Friday and Saturday evenings only initially, and to use the Entertainment Permit allow greater flexibility. He said that he would like for dancing to initially be permitted on Friday and Saturday nights in order to determine the response of the neighbors and then possibly to allow for dancing on Thursday and Sunday nights later if it is not determined to be a concern.

Commissioner Paralusz said that she is in agreement with the suggestion of Commissioner Lesser to allow dancing on Friday and Saturday nights, and use the Entertainment Permit to allow flexibility.

Commissioner Seville-Jones said that she is concerned with conditions that are approved as part of the Entertainment Permit possibly being eased too easily and that there would not be a standard by which the rights may then be scaled back. She indicated that she would be

concerned that the neighbors may not have a remedy if they have issues after conditions are eased as part of the Entertainment Permit.

In response to a question from Commissioner Lesser, Director Thompson said that neighbors would receive notice for changes that are proposed to the Use Permit. He commented that noticing is not required for approval of changes to the Entertainment Permit. He said that staff would make a decision on changes to the Entertainment Permit based on any complaints that have been received by the Police or Code Enforcement.

Commissioner Seville-Jones commented that as has been demonstrated by The Shade, it does not appear that complaints that have been received by Code Enforcement are a sufficient measure as to whether an operation is impacting the neighbors. She said that she would like for the hours permitted for dancing to be included as part of the Use Permit.

The Commission agreed to allow breakfast service at 8:00 a.m. every day and that deliveries should be restricted from occurring during earlier hours.

The Commissioners supported expanding the number of special events from 6 to 12.

Commissioner Lesser said that he would support allowing an increase in the number of special events with the presumption that the noise mitigation measures would be effective in reducing any impacts to the neighbors.

Chairman Lesser pointed out that the subject establishment would have people in the dining area whether or not there is a special event.

Director Thompson said that staff is not concerned with allowing more special events, and he feels the main concern is that noise issues in general are mitigated from the building.

Commissioner Lesser indicated that he is sensitive to the applicant wishing to move the project forward. He indicated, however, that he would like more information regarding the policies of other cities in terms of having private space encroach higher than the first floor over the public sidewalk area. He indicated that he understands that the architect is attempting to create an articulated and visually attractive exterior and to provide an area for dining that is open to the outdoors. He said that he would like for the applicant to have outdoor dining, but he would like more information regarding encroaching into the public space.

Commissioner Paralusz stated that she also is concerned about allowing people to eat and drink on the balcony above the sidewalk. She commented that she would not want the balcony to become an attraction for people to shout to pedestrians on the sidewalk which could result in noise spilling into the neighborhood. She said that she has concerns with a private operation encroaching into public space. She commented that the proposed balcony is different than

having a canopy over the sidewalk. She said that the balcony would be a permanent structure with people talking and drinking.

Commissioner Seville-Jones said that she has the same concern as Commissioner Paralusz regarding people on the balcony yelling down to pedestrians on the sidewalk. She indicated that she is concerned that the balcony would obstruct the view down Manhattan Beach Boulevard toward the pier. She commented that she is also concerned that allowing the balcony for the subject use would result in other businesses in the area requesting similar balconies. She commented that she is concerned that allowing the balconies is heading in the wrong direction for the downtown area, and there are other opportunities in the building to provide ocean views.

Chairman Fasola said that he does not believe that the proposal for the balcony would comply with the Building Code even if it were supported by the Commission. He indicated that allowing the balcony over the sidewalk would set a precedent for other businesses. He commented that he is sure that the projection on the neighboring structure was originally built as a canopy rather than as a balcony. He indicated that the upper balcony would be located next to the bar area. He said that he would predict that people would take their drinks and congregate on the balcony. He indicated that drinks could fall over the edge of the balcony onto the sidewalk which could create a liability concern. He said that he does not support the proposal for the balconies.

In response to a question from Commissioner Lesser, Chairman Fasola said that his main concern is regarding the encroachment of patrons into the public right-of-way. He commented that allowing the balcony for the subject proposal would set a precedent for other businesses.

Commissioner Seville-Jones said that it would be sad for the building to be so close to the ocean without having windows that are able to open for fresh air. She indicated, however, that there needs to be a balance between having the entire wall being open toward Manhattan Beach Boulevard and having the entire structure enclosed with no windows. She suggested possibly having the openings become smaller, having openings only on certain floors, or allowing open windows only during certain hours. She said that she would still have a concern with specifying a time that the windows would need to be shut because there could be a lot of noise generated from the establishment during daytime hours.

Commissioner Paralusz stated that she would be in favor of limiting the hours that the windows could be open. She said that it would be a shame not to have retractable windows to provide open air, but it does need to be balanced with the needs of the adjacent neighbors.

Commissioner Lesser commented that the applicant had indicated that the STC rating of the glass is higher than that of typical walls.

Chairman Fasola pointed out that the applicant stated that the STC rating of the glass varies from 45 to 54, which are quite different ratings.

Commissioner Lesser said that he shares the concerns of Commissioner Seville-Jones regarding noise impacts during daytime hours. He said that he would not want to be unfair toward the applicant in denying windows, as Shark's Cove is near the subject site and has windows that open to the outside. He indicated that he would like further information on the estimated sound that would emanate from the windows before he makes a judgment.

Commissioner Seville-Jones pointed out that the sound is audible when standing in front of Simzzy's, and the subject site would be much larger.

Chairman Fasola commented that the sound from Simzzy's may travel further because of the angle of the roof which acts like a megaphone. He said that the noise should not be as audible from the subject establishment with flat ceilings. He indicated that he would support allowing the applicant to open the door on level three where there is a small balcony with two tables. He said that he could envision that patrons would congregate on the patio on level 4. He indicated that he has a concern with the patio being located next to the bar area on the fourth level without tables in front of the doors to block access. He commented that he does not have as much of a concern with the patio doors on the third level where there are tables in front of it. He said that he would support the applicant having the ability to open some doors with the provision that they be closed if there is a problem with noise. He said that he does not have as much of a concern with noise on the first and second levels and feels the main concern is on the fourth level and possibly the third level. He suggested possibly requiring that the doors be closed at a certain time and limiting access to the patio.

Commissioner Seville-Jones said that she would like for the building to have fewer windows that open on the south side toward Manhattan Beach Boulevard.

Chairman Fasola commented that reducing the size of the windows results in less of a feeling of being outside, and the establishment is an opportunity to provide an outdoor atmosphere. He indicated that it would be an advantage to have the windows on Manhattan Beach Boulevard rather than to the west because it would prevent a great deal of the wind that comes off of the ocean from blowing in from the windows.

Commissioner Seville-Jones said that she is convinced that there would be noise from the restaurant that would impact the neighbors if there are open windows. She indicated that she would like for there to be fewer windows. She commented that she would think that noise would be generated into the neighborhood with the patio doors on the first floor being open.

Commissioner Lesser said that he would like for an acoustic study to be done for the site.

Director Thompson said that staff has heard the concerns of the Commission and will come back with further recommendations. He said that staff will provide more information on the doors and windows.

In response to a comment from Chairman Fasola, Associate Planner Haaland pointed out that there is no proposal for expansion of total dining area.

The Commissioners agreed that they do not have a concern with the location of the dance floor as proposed.

Chairman Fasola said that he has a concern with the rooftop terrace where a satellite dish was previously located. He said that he would like for the area to become part of the roof with no doorway access rather than to have a parapet placed around it. He commented that he would not like for it to become an employee break area, as it is located directly adjacent to residents.

Director Thompson commented that the proposal is to only allow access to the rooftop terrace for maintenance. He indicated that any access to the roof would be a hatch rather than a door, and the area would only include mechanical equipment.

Chairman Fasola suggested that the restaurant begin operating with the conditions that were part of the existing Use Permit, and the applicant can then request changes once the establishment has been in operation for a period of time. He commented that he would rather act conservatively and not allow more entitlements than are currently permitted under the existing Use Permit.

Mr. Zislis said that he would like for the Commission to vote on the project as described in the staff report so that it can move forward to the City Council. He commented that he has attempted to design the project to help mitigate any impacts to the neighbors. He indicated that he has rights as part of the existing Conditional Use Permit. He stated that he has worked hard with the neighbors and would prefer to not have additional conditions imposed. He said that he suggested allowing dancing on Thursday and Sunday nights as part of the Entertainment Permit; however, his understanding is that the Commissioners have suggested that it be permitted on Friday and Saturday nights only with a possibility of allowing Thursday and Sunday nights later.

Chairman Fasola said that the direction of the Commission is that the establishment operate under the conditions of the existing Use Permit and that further entitlements be considered after the business has been in operation for a period of time. He indicated that the Commission is not suggesting that any rights under the existing permit be taken away.

Mr. Zislis commented that he is on a tight time line. He indicated that he has already begun development of the property and has already spent a great deal of money on the project. He

said that he does not want to lose any of the rights he currently has with the property, and he hopes that the Resolution that is approve will allow him to keep the rights he has with the existing permit and meets the concerns of the neighbors. He said that he is willing to have a review in 90 days.

In response to a comment from **Mr. Zislis**, Chairman Fasola said that he feels that the intent of operating hours until 1:00 a.m. means that the building is shut down at that time, and the time line for ending dancing and alcohol service before that hour is up to the applicant.

Mr. Zislis said that closing at 1:00 a.m. means that service ends at that time, and the Police Department can only enforce that service stop at that time.

In response to a comment from Commissioner Lesser, **Mr. Zislis** said that he would like to have Council consider the request for the balconies rather than to remove them from the plans at this point. He commented that the Council had previously indicated that balconies would be a good addition to the downtown.

Commissioner Lesser said that he did not see any information regarding the opinion of the Council regarding the balconies in the staff report. He indicated that he feels he does not have sufficient information on which to base his decision.

In response to a question from Commissioner Lesser, **Mr. Zislis** said that he will wait for the matter to be continued on February 23 before the Commission provided that the Commissioners are willing to protect his existing rights.

Commissioner Seville-Jones said that she is basically supportive of the improvements to the property. She commented, however, that it is her understanding that only three residents were present when the document specifying the mitigation measures was written. She indicated that she would like for the item to come back before the Commission with the specific language as to how the concerns of the neighbors will be addressed.

Commissioner Lesser indicated that he would like further information regarding the effectiveness of the glass and other parts of the design in soundproofing.

Chairman Fasola reopened the public hearing.

A motion was MADE and SECONDED (Lesser/Paralusz) to **CONTINUE** the public hearing for the Use Permit Amendment to remodel an existing restaurant including the addition of outdoor dining with balconies adjacent to Manhattan Beach Boulevard, and expansion of operating and entertainment hours, on the property located at 117 Manhattan Beach Boulevard to the meeting of February 23, 2011.

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

5. AUDIENCE PARTICIPATION

6. DIRECTORS ITEMS

7. PLANNING COMMISSION ITEMS

In response to a question from Chairman Fasola, Director Thompson said that the City Manager wanted to fully understand the new library proposal before it was scheduled before the City Council.

Commissioner Paralusz said that the litigation against Chevron has been resolved, and the construction at the Chevron station on Aviation Boulevard has been restarted.

In response to a question from Commissioner Lesser, Director Thompson indicated that the City Council approved the request of the Belamar Hotel to charge overnight guests for overnight parking. He indicated that the City Council has requested that the decision be reviewed in six months.



[sample After Dinner Hours menu]

Chorizo and potato 'torilla'

Crispy Shrimp, yuzu kosho aioli

Carlsbad Mussels, lemon, basil

Oysters on a ½ shell, cocktail sauce, mignonette

Beet and Burrata Salad, frisee lettuce, dried-cranberries, walnuts, raspberry vinaigrette

Ahi Tuna Tartar, avocado, cucumber, lime-ginger vinaigrette

Wood-Oven Roasted Calamari, chorizo, parsley, confit Meyer lemon

Prime Beef Sliders, smoked tomato ketchup, gruyere

Mini Lump Crab Cakes, whole grain mustard remoulade

Baby Rack of Lamb, olive tepanade

Hamachi Sashimi, pickled radish, lemon 'caviar'

WOOD-FIRED PIZZAS

Spicy Sopressata, mozzarella, Crimini mushrooms, sage

Smoked Duck, hoisin, red onion, cilantro, gouda

Margarita, tomatoes, oregano, garlic, chiles, olive oil

EXHIBIT
C PC 2/23/11

Neal Fraser

Executive Chef / Consultant



Biography

Fraser began his culinary career in Los Angeles at the age of 20, working as a line cook at Eureka Brewery and Restaurant, one of Wolfgang Puck's earliest restaurants. Inspired by this introduction to the life of a professional chef, Fraser entered the prestigious Culinary Institute of America in Hyde Park, New York, in the fall of 1990.

During his tenure at the CIA, Fraser worked with such luminaries as Thomas Keller at the Checkers Hotel in Los Angeles, and David Burke at the Park Avenue Café in New York. Upon returning to his native Los Angeles, Fraser continued cooking with the best in the business, including stretches at Joachim Splichal's Pinot Bistro, Wolfgang Puck's Spago, and Hans Rockenwagner's Rox.

When he was ready to strike out on his own, Fraser opened Boxer in 1995. The time spent as Executive Chef and part-owner of the intimate 50-seat restaurant afforded him his first opportunity to learn all the nuances and challenges of running a destination restaurant. And he accomplished all the tasks while earning glowing reviews from local and national media.

After three years, Fraser moved on to Rix in Santa Monica. As Executive Chef he continued to attract media attention with his weekly 8- to 10-course tasting menus, one of which was a controversial but well-received all-hemp menu.

Fraser made another move in the fall of 1999: He took over the kitchens at the legendary Jimmy's in Beverly Hills. This coveted position would be short-lived, however, due to a change in building ownership. Jimmy's closed its doors soon after Fraser's arrival.

Neal Fraser spent his down time contemplating his next move—opening GRACE in 2003. As Co-owner and Executive Chef, Fraser serves his New American cuisine in an atmosphere perfectly designed to complement the ambitious flavors of one of Los Angeles' most revolutionary culinary talents.

Earning national critical acclaim for his masterful approach to any ingredient from wild boar to tofu, critical accolades include "Hot Tables"—Condé Nast Traveler, "LA's 25 Best Restaurants" "LA's 75 Best Restaurants" – Los Angeles Magazine, "Chef of the Year" – Angeleno. In January 2006 Fraser battled Iron Chef Cat Cora on Food Network's widely popular series "Iron Chef America" and became the first Los Angeles chef to win the culinary competition.

Fraser opened BLD, his second restaurant with his partners from GRACE in July 2006. Located just steps away from GRACE, BLD serves breakfast, lunch and dinner in a comfortable yet elegant atmosphere.

APPETIZERS

Corn Soup fava beans, guanciale crostini, burgundy snails	14
Butter Lettuce Salad buttermilk blue cheese, cherry tomatoes, smoked bacon, blue cheese vinaigrette	14
Roasted Beet Salad goat's milk, greens, pistachios, goat cheese fondue	15
Spinach & Arugula Salad candied pecans, poached pears, ricotta salata	14
Olive Oil Poached Halibut brandade, horseradish cream, sherry gelée	16
Slow Cooked Egg spring onions, pork belly, oyster mushrooms	16
House Made Pappardelle mussels, pork sausage, tomato sauce, fresh garbanzos	16



GRACE
RESTAURANT

ENTRÉES

Smoked Tofu butternut squash purée, broccolini, oyster mushrooms, balsamic reduction	25
Sautéed Day Boat Scallops english pea risotto, morel mushrooms, asparagus, basil nage	30
Sautéed Bristol Bay King Salmon beluga lentils, beet greens, vadouvan	31
Grilled Jidori Chicken Breast goat cheese cannelloni, guajillo chilis	27
Braised Pork Shank smoked shallot & chorizo home fries, garlic rapini, cider sage sauce	28
Grilled Ribeye of Beef nettle polenta, balsamic cippollini onions, red wine nage	31

DESSERT

Sticky Toffee Pudding brûléed bananas, toffee sauce, hazelnut gelato	10
Honeyed Pain Perdu lavender ice cream, meyer lemon curd, pistachios	10
Warm Blackberry Blueberry Crisp spice crumble, vanilla ice cream	10
Chocolate Soufflé Cake Affogato vanilla malt ice cream, toasted almonds, espresso syrup	10
Cinnamon Beignets warm dulce de leche, crème fraîche, salted pecans	10
Cookies & Milk house made cookies with warm spiced milk	10



Client: Grace

Publication: *Angeleno*

Date: August 2008

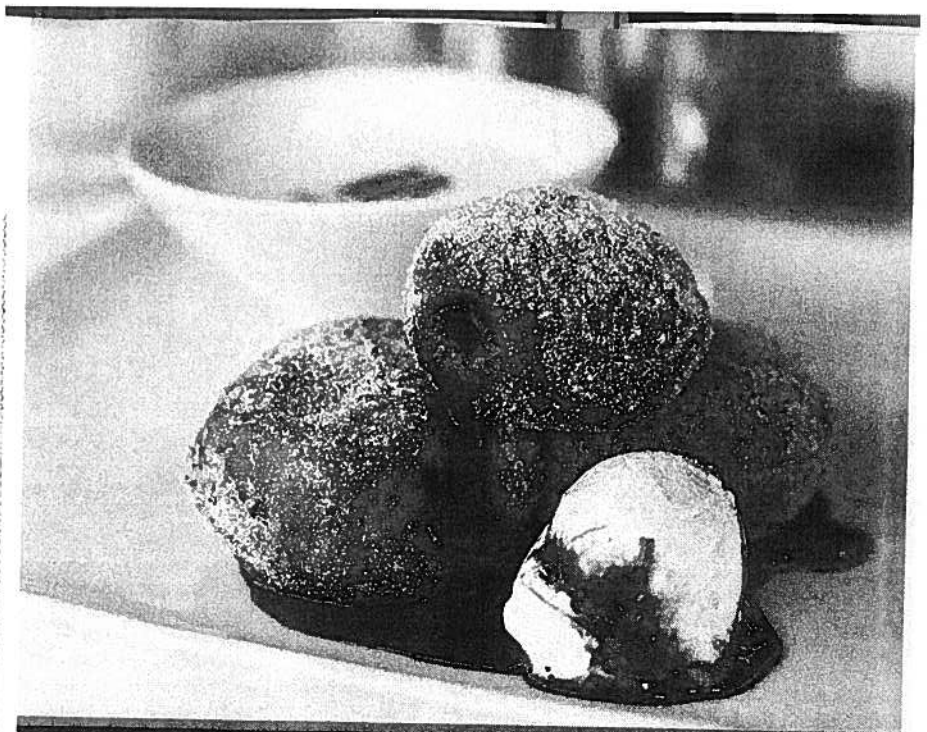
Circulation: 50,000

Angeleno

THE RESTAURANT ISSUE 2008

MODERN LUXURY™

[TOP 25] *Grace* is the perfect example of how to decorate a grand space without going overboard. Dining here always feels like a special occasion, even if you're dressed in jeans and enjoying a burger. And as delicious as the roasted halibut or grilled wild boar might be, the best option is to simply ask Neal Fraser to cook whatever inspires him. 7360 Beverly Blvd., L.A., 323.934.4400, www.gracerestaurant.com.



GRACE

LOS ANGELES

40

NEAL FRASER UNDOUBTEDLY birthed the first *gastrique* on Beverly Boulevard. He was sourcing and sautéing there long before it became the new restaurant row. Grace is an establishment that is mature in every way. The decor looks like West Elm on a fabulous budget; the atmosphere is contemporary and urbane. Curved mirrors reflect the room and the nook of a bar. Fraser's cooking, ever wide-ranging, crystallizes around themes like local ingredients and game. A dish such as McFarland Farms pheasant with bacon molasses, Anson Mills polenta, and a brandy-orange reduction hits the spot between the old and the new. Dessert doughnuts are a must. » 7360 Beverly Blvd., L.A., 323-934-4400 or gracerestaurant.com. ✪ ✪



GRACE

LOS ANGELES

It's the first time the world has seen a chef's kitchen in a restaurant. Grace is a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

Even though, L.A. is a city of chefs, it's hard to find a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

Simon LA is a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

Just past Baker, Grace's Simon LA is a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

And then there are the chefs of the busy South parts, whose star ratings are around a 4.5. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

The Pyramid on Melrose is a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

Eric Greenbaum's The Pyramid on Melrose is a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

Los Angeles

LA'S 75 BEST RESTAURANTS
Who Will Rank ★★★★★?
Find Out on Page 106

In a restaurant, and the kitchen, there are no secrets. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

Master's Kitchen is a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant. It's the first time the world has seen a chef's kitchen in a restaurant.

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Client: Grace

Publication: *Los Angeles Times – The Guide*

Date: August 8, 2008

Circulation: N/A

Los Angeles Times The Guide

Lists

Antonio Villaraigosa's favorite L.A. restaurants



There's something about running the second largest city in America that makes you hungry. Los Angeles Mayor Antonio Villaraigosa is constantly on the move, but even a mayor has to eat, and he takes the opportunity to frequent many of the city's top dining destinations.

And not all of them are the city's spendiest, either. Check out the list he gave us. Unlike former Mayor Richard Riordan (who owns a few well-known spots in town), Villaraigosa hasn't really staked out a particular room in town where he holds court. He's got too much ground to cover. Instead, he seems to have the good taste of a man who's knowledgeable about every corner of his city. A few of these entries just might surprise you.

1. Patina Downtown L.A.



You get a great dish every single time here. There is a high level of culinary excellence every time and a consistency that is just incredible. I'd say their cheese selection is maybe the best in the city. And I always get the Foie Gras. It's great.

2. Water Grill Downtown L.A.



The best food anywhere in Los Angeles. They change their dishes often, but I know that the tuna tartare is great and the oysters are just phenomenal.

3. Spago Beverly Hills



Wolfgang does most of our events. I tend not to go to restaurants out of the city of Los Angeles too often. He caters the vast majority of our events when we entertain dignitaries. He almost always caters for us.

8. Grace Fairfax District



You get family-sized servings here. It's unique and great cuisine...they have wild boar [on the menu].

Travis Lorton

Chef de Cuisine

Biography

Growing up in a small farm town in the Midwest, Travis Lorton is no stranger to feeding people. When he was a dishwasher at 14 years old he knew then that a restaurant kitchen felt like home.

Young in his career, Travis moved to Chicago, where he earned a degree in Culinary Arts and Hospitality Management. While in Chicago he was afforded the opportunities to work and stage in restaurants and hotels across the city including MK, Blackbird, Avenues at the Peninsula, Le Meridien, Schwa, and One Sixty Blue. Most recently Travis has been honing his skills in Los Angeles at Gjelina.

Passionate about fresh, local ingredients, Travis is a regular visitor to local farmers markets. He's spent time building important relationships with many of the farmers because of his desire to know as much about the food as possible. Travis is completely invested in using organic and sustainable methods when cooking. Not because it's trendy, but because he knows that people not only want to be full and satisfied but they also want to feel good about what they consume.

GJELINA	Los Angeles, CA	June 2009 – Present
BISTRO ONE	Denver, CO	March 2008 – December 2008
FINESSE CUISINE	Chicago, IL	July 2007 – November 2007
BLACKBIRD RESTAURANT	Chicago, IL	December 2006 – June 2007
MK THE RESTAURANT	Chicago, IL	June 2005 – December 2006
LE MERIDIEN HOTEL	Chicago, IL	January 2004 – June 2005
SILVERCREEK RESTAURANT	Urbana, IL	September 2003 – January 2004
OLDE VOSS SALOON	Bonnot's Mill, MO	July 1996 – December 1998
SEIGFREID'S FINE FOODS	Owensville, MO	April 1992 – September 1995

Blackbird Dinner Menu

Appetizers

- 12 garbanzo bean soup with falafel, pickled asian pear, caramelized egg yolk and sumac
- 11 blue hill bay bouchot mussel soup with whitefish, saffron, garlic and basil
- 12 salad of endives with crispy potatoes, basil, dijon, pancetta and poached egg
- 15 smoked duck liver pate with baby carrots, pickled mustard seeds, rye bread and burnt caramel vinegar
- 15 maple glazed veal sweetbreads with rutabaga, granny smith apple and black caraway
- 15 smoked suckling pig with hama hama oyster, fall giardiniera, sunchokes and hazelnuts
- 20 roasted hudson valley foie gras with charred green garlic, black garlic, preserved plum and shrimp salt
- 18 seared diver scallops with pears, brussels sprouts and powdered sauerkraut
- 15 octopus confit with celery root, crispy tuscan kale, caviar and red navel orange
- 15 coffee-scented fluke tartare with lemon cucumber, saffron, and bread sauce

Entrees

- 34 wood-grilled sturgeon with ham hock, red beet, cabbage, smoked dates and walnut consommé
- 34 smoked arctic char with flageolets, pink lady apple and fried pumpnickel
- 33 alaskan sablefish and sweet potato brandade, shrimp braised onions, turmeric and pickled cranberries
- 28 butternut and ricotta tart with black trumpet mushrooms, quinoa and wakame
- 35 aged pekin duck breast with golden beets, chestnut soubise and munich malt
- 32 roasted farm chicken and sausage with cauliflower, maitake mushrooms, kaffir limes and applewood broth
- 35 grilled pork shoulder with roasted turnips, charred leeks, quince and black truffle
- 37 roasted colorado lamb saddle with salsify, fried lentils, licorice root and smoked olives
- 40 duck fat poached elk strip loin with whole wheat knefla, crispy broccoli, pickled mulberries and bergamot cream
- 38 braised short rib with parsley root, grapefruit, elderflower and red wine

MK Menu

oysters

chilled kumamoto and beau soleil oysters on the half shell, mignonette 18

lobster

chilled maine lobster, cara cara oranges, pickled shallots, werp farm petite lettuces
cracked black pepper 16

quail

texas bobwhite quail, mission figs, parsley root, lamb pancetta 16

tuna

yellowfin tuna tartare, celery root remoulade, moroccan cured olives, extra virgin olive oil 15

gnocchi

cow's milk ricotta gnocchi, tuscan kale, smoked bacon, parmigiano reggiano, chilies 14

king crab

sweet alaskan king crab, avocado, jicama, local petite lettuces, cilantro, lime vinaigrette 16

salad

belgian endive, french green beans, apple, watercress, local blue cheese, spiced pecans 14

octopus

baby octopus grilled over hardwood charcoal, braised bell peppers, scallions, red pepper purée 14

pasta

house made fettuccine, seasonal wild mushrooms, pecorino, thyme 15/25

lobster bisque

maine lobster, tomato, saffron, cognac and a touch of cream 15

arugula

baby arugula, shaved fennel, pine nuts, humboldt fog goat cheese, lemon vinaigrette 12

market fresh fish

oven roasted whole fish, poached fennel, thyme, sherry vinaigrette 40

scallops

main diver sea scallops, caramelized cauliflower, pickled leeks, pink peppercorns 32

salmon

atlantic salmon grilled over hardwood charcoal, chinese mustard glaze, bok choy
shiitake mushrooms, ginger soy vinaigrette 30

tuna

peppercorn crusted yellowfin tuna seared rare, spinach, shiitake mushrooms
garlic mashed potato, red wine syrup 35

whitefish / lobster

pan roasted lake erie whitefish, poached maine lobster, leeks, spaghetti squash, lemongrass
kaffir lime scented shellfish broth 36

bison

grilled bison ribeye, sunchokes, heirloom carrots, vidalia onions, pommery mustard 45

chicken

naturally raised and roasted, anson mills corn polenta, stewed heirloom tomato, rosemary 28

lamb

roast colorado lamb rack, italian cous cous, chanterelle mushrooms, salsa verde 49

veal

veal porterhouse grilled over hardwood charcoal, rapini, villa manodori aged balsamic 45

steak

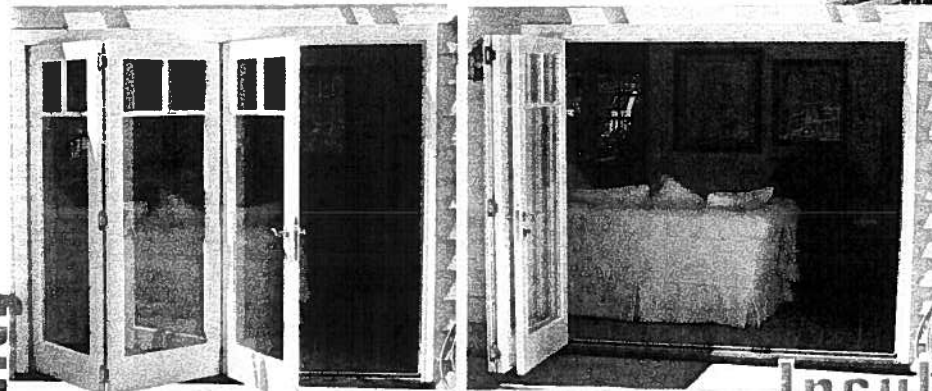
prime new york sirloin grilled over hardwood charcoal, royal trumpet mushrooms, red wine sauce 48

pommes frites, truffle cream 8 extra truffle cream 2

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YOUR NEIGHBORHOOD



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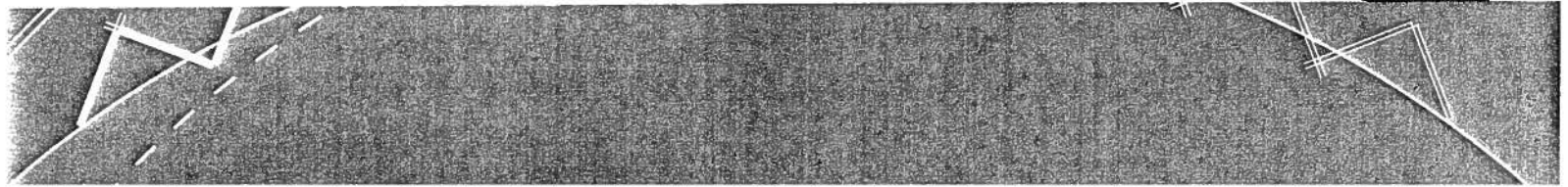


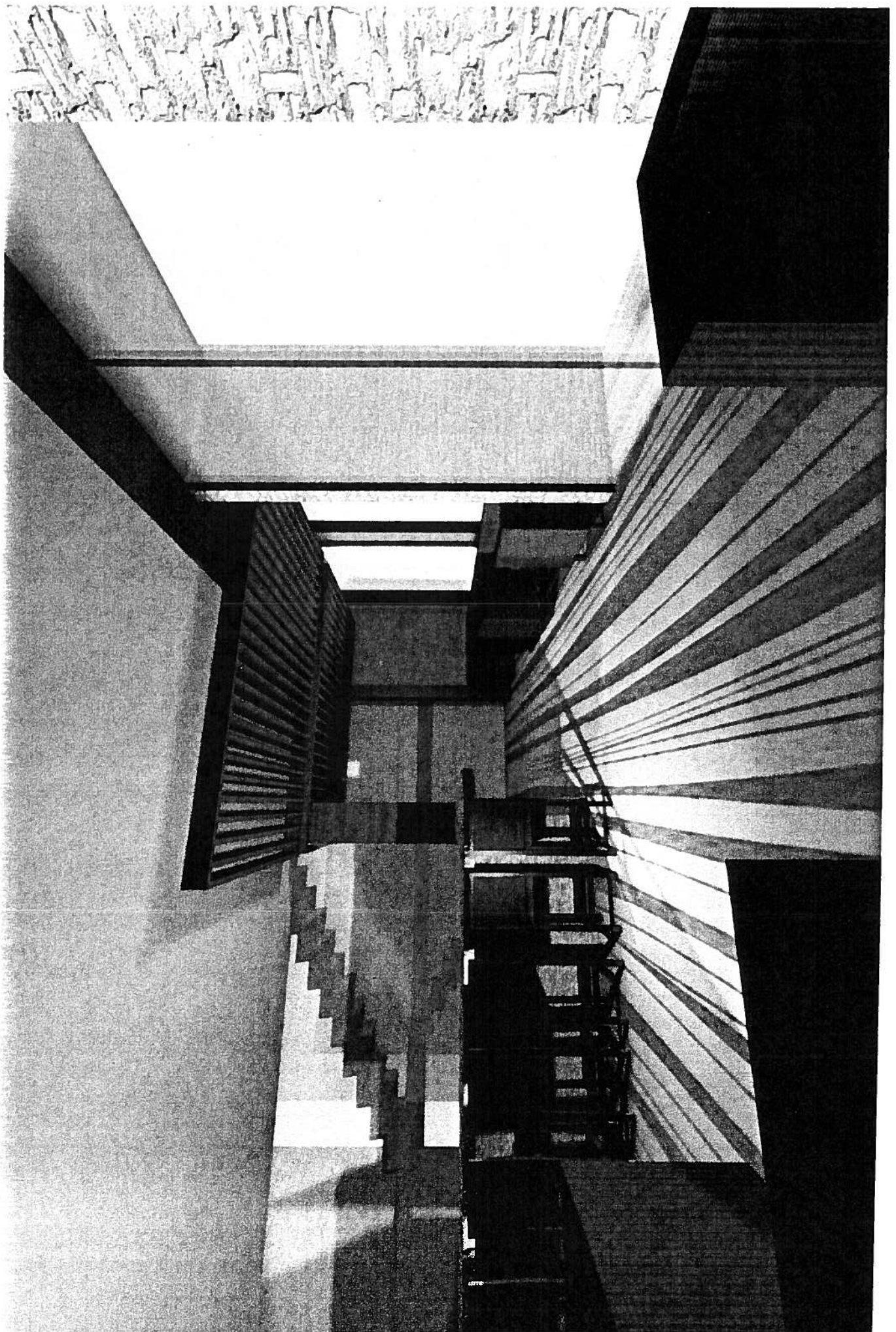
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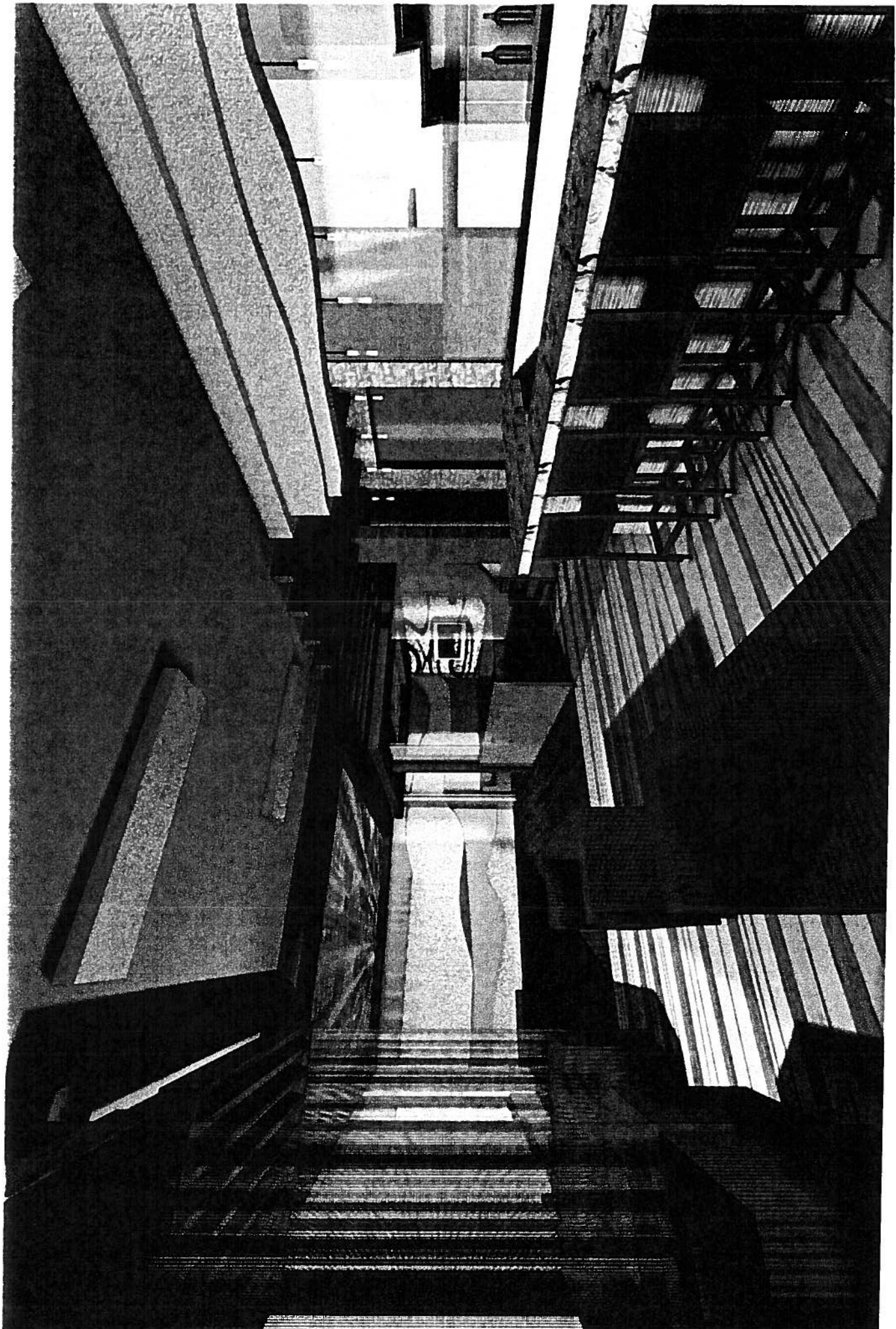


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Eric Haaland

From: jim quilliam [jimquilliam@hotmail.com]
Sent: Monday, February 14, 2011 8:04 PM
To: List - Planning Commission
Cc: List - City Council; City Manager; Richard Thompson; Eric Haaland
Subject: Special Event Revision to Draft Strata Use Permit
Attachments: ExhibitA-Strata-ResUseCond-RevD.pdf; 110126-PC-Strata-StaffReport-ClosingHours.pdf

Planning Commission
City of Manhattan Beach
Via Email

Commissioners,

Yesterday, Sunday February 13, the neighborhood met to discuss our draft Strata use permit. Among other items, we decided to accept the twelve special events to permit dancing on days other than Friday and Saturday.

We concluded, if the commission imposes additional restrictions on Strata, such as midnight closing for Sunday through Thursday, that will offset the disturbances caused by the additional nights for dancing during the work week.

The attachment provides the revised draft use permit, which now includes a definition and condition for special events.

The second attachment shows that 25 of 33 Downtown premises have closing hours on or before midnight, for Sundays through Thursdays. The eight establishments with later than midnight closing on work-week nights have use permits that predate the city policy to reduce bar hours.

We have one unresolved item, namely queues on public right of ways, the last item in the draft use permit. We requested from staff the city policy for bar and nightclub queues on sidewalks, but have not yet received that information.

Next Friday, when the city posts on the Internet the staff report for the Wednesday February 23 hearing, we will review our draft use permit for further modification. In that input to the commission, we will also provide brief explanations for our findings and conditions that conflict with those in the draft resolution.

Regards, Jim Quilliam
124 B 12th St, Manhattan Beach CA 90266
310 546 6276

EXHIBIT
D PC 2/23/11

EXHIBIT A

PROPOSED NEIGHBORHOOD USE PERMIT FINDINGS AND CONDITIONS

FINDINGS (preceding * indicates derivation from Resolution 6275, Shade Hotel).

RF-1. The previous use permit, Resolution 5087, states at Finding 4, that the use will not be detrimental, “...*in that the increased entertainment intensity is in conjunction with a reduction in operating hours and alcohol service.*” The aforementioned policy remains in effect for this Resolution, to require reductions in entitlements, for any additional intensification in operation.

RF-2. The premises require an entertainment permit, as defined and regulated in Chapter 4.20 of the MBMC, because more than 100 patrons can assemble at one time, when either one, two or all three of the following conditions exist: entertainment, food service or alcohol service.

RF-3. In Resolution 5087, Condition 9 states that, “A Class I Group Entertainment Permit shall be obtained for all entertainment aspects of the business.” The city may administratively deny granting a permit or revoke an existing permit, as per MBMC 4.20.080 and 4.20.110, respectively. Group entertainment includes dancing. Consequently, the parameters defining entertainment and dancing, such as times and days, do not constitute entitlements.

RF-4. In Resolution 5087, Condition 8(C) identifies six special events as located on “the temporary upper dance floor,” which the current applicant did not request. Furthermore, the said condition stipulates that the events are subject to approval in a Class II Entertainment Permit. For Class II permits, the municipal code at MBMC 4.20.050(B) requires the operator to apply for each event separately, which the city can administratively deny. Therefore, the said six special events defining dancing on the second floor do not constitute entitlements.

RF-5. *As defined and required by Chapter 4.20 of the MBMC, all aspects of entertainment, including dancing, shall continue in this Resolution to be regulated by appropriate entertainment permits, both deniable and revocable.

RF-6. The property has an ABC Type 47 license, On Sale General–Eating Place. The premises license predates the standard ABC condition in later Type 47 licenses, which require alcohol sales not to exceed food sales, on a quarterly basis. Notwithstanding lack of said condition in the current alcohol license, the permitted use remains strictly for a restaurant, with emphasis on food service, not alcohol.

RF-7. *Based on testimony from many neighboring residents, in the past, the premises created noise and disturbances that discomforted and irritated reasonable persons of normal sensitiveness. The MBPD responded to numerous calls regarding these disturbances, and for some incidents, booked as evidence, reports and recordings of noise.

RF-8. *Many parallels exist between this Resolution and the hearings that led to Shade Hotel Resolution 6275. Where effective and practical, to prevent the abovementioned disturbances, the administrative record for Shade Hotel constitutes a model and template for this Resolution, incorporated by reference into the record for this permitting process.

EXHIBIT A

PROPOSED NEIGHBORHOOD USE PERMIT FINDINGS AND CONDITIONS

RF-9. To encourage outdoor dining, the city permits eating and drinking places to have fully-retractable windows and doors that open onto public right of ways. Statements by city officials and public testimony indicate, that in some cases, this has resulted in high levels of noise on said public right of ways. This Resolution addresses mitigation required, to ensure that such external noise from south-facing openings shall not exceed maximum permitted levels.

RF-10. For the premises, Chapter 4.20 of the MBMC defines either service of food or alcohol as constituents of group entertainment, subject to administrative regulation. Consequently, the city shall use the annual entertainment permit to ensure compliance with the noise ordinance when windows and doors open, as provided for in MBMC 4.20.080 (A) and (B).

RF-11. In addition to noise resulting from entertainment and dancing, public testimony has established that the residential neighborhood experiences additional disturbances, as result of kitchen operations, facility cleaning, staff activities, and other daily maintenance. This Resolution addresses soundproofing the entire structure, not just the areas occupied by patrons, to ensure that all internally-generated noise shall not result in external sound that exceeds maximum permitted levels. Additionally, this Resolution limits hours and locations of activities outside of the facility, such as but not restricted to, deliveries and trash pickup.

RF-12. The restaurant use requires substantial roof-top installations of kitchen exhausts, heating and cooling equipment, and other noisy mechanical devices. The applicant has requested to move some equipment to the northwest roof, above the carport area and adjacent to residences. This Resolution addresses acoustic baffling and cosmetic shielding of all rooftop equipment, to ensure that resulting noise at residential properties does not exceed permitted levels, nor that the installations create visual blight, as viewed from homes.

RF-13. Public testimony attests that patrons from the premises intrude into the adjoining residential neighborhood and cause disturbances, as well as disturbances in the state parking lots adjoining the premises. Among other means such as signs, this Resolution requires restaurant staff stationed outside the premises, to encourage patron behavior respectful of residents and to monitor the area for timely reporting of disturbances to MBPD.

EXHIBIT A

PROPOSED NEIGHBORHOOD USE PERMIT FINDINGS AND CONDITIONS

CONDITIONS (preceding * indicates derivation from Resolution 6275, Shade Hotel).

RC-1. Definitions.

- RC1-1. ***Closed.** Premises vacated by the general public, special guests, or anyone other than employees. At closing time, staff shall have collected all glasses, bottles, cans and drinks, to comply with the ABC definition of closed, as "no sale, service, or consumption of alcoholic beverages." Amplified sound off, including TV. All doors, windows and other openings closed.
- RC1-2. ***End of alcohol service.** Replaces 'last call.' No service of alcohol drinks after 'end of alcohol service.'
- RC1-3. **Special event.** A special event permits dancing on days other than Friday and Saturday. During a special event, all conditions other than dancing, as provided for herein, remain in effect, such as closing time and implementation measures to ensure compliance with the noise ordinance.
- RC1-4. ***Background music.** Sound intensity anywhere in a room or venue shall not exceed 65 dBA, where 'A' represents the A-weighted frequency response commonly attributed to human hearing, as described in MBMC. All dB values refer to the dBA unit.
- RC1-5. **Impulsive Sound.** For the five (5) dB reduction in the noise standards required in MBMC for Correction of Character of Sound, impulsive sound shall include shouts, yells, screams, and the periodic beat of music.
- RC1-6. **Pure tone.** For the five (5) dB reduction in the noise standards required in MBMC for Correction of Character of Sound, pure tone shall include the hum, whine or clattering of mechanical equipment, such as, but not limited to, air conditioners and refrigerator compressors.
- RC1-7. **Amplified sound or entertainment.** This refers to any sound generated electronically, including TV and other media.
- RC1-8. **Sound Transmission Class, STC 50.** Air-borne sound attenuation of 50 dB (45 dB if field tested), equivalent to Section 1207 of the International Building Code (IBC) and appropriate ASTM International standards.
- RC1-9. **Permitted Sound Levels.** Intensities in dB set forth in the noise ordinance, or as determined by MBPD or a city employee, as additionally provided for herein.
- RC1-10. **Entertainment.** As defined in Chapter 4.20 of MBMC, entertainment specifically includes dancing. No aspect or parameter of entertainment stipulated in the annual entertainment permit constitutes an entitlement or property right.

RC-2. Entertainment and Noise.

- RC2-1. ***General.** The Director of Community Development shall not loosen, reduce or make less restrictive, any limitations or conditions set forth in this document, including the initial entertainment permit, as amended, without approval by the planning commission, with notice to property owners within a 300-foot radius, according to standard notice procedures.

EXHIBIT A
PROPOSED NEIGHBORHOOD USE PERMIT FINDINGS AND CONDITIONS

- RC2-2. ***Entertainment and amplified sound.** All live and recorded amplified entertainment shall use the house system only, under control of staff.
- RC2-3. ***Sound audibility.** In addition to noise standards stipulated in the noise ordinance, the volume of music, entertainment, group singing, and voice, whether or not amplified, shall not create sound levels, for any length of time, that exceed any of the following, as determined by MBPD or a city employee:
- A. Audible at a range of 75 feet
 - B. The dominant noise source at any point on or outside the property lines, as described in MBMC 5.48.160 (C).
- RC2-4. ***Entertainment and Dancing Location.** Live amplified sound and dancing are limited to Level 1, with a 240 SF dance floor, defined by a temporary railing fixed to the floor. The city shall use the annual entertainment permit to regulate all aspects of entertainment, including dancing, but not to exceed the regulations set forth in this resolution.
- RC2-5. ***Entertainment Permit.** As required by Chapter 4.20 of MBMC, on or before March 1 of every year, the establishment shall apply for a Class I Group Entertainment Permit. The city shall use the entertainment permit to regulate all aspects and parameters of entertainment, such as, but not limited to, dancing start-stop times and days of the week.
- RC2-6. ***Special Events.** The annual entertainment permit may authorize up to twelve (12) special events a year, but no more than one per month. Each special event shall require a Class II Group Entertainment Permit. Except for dancing on days other than Friday and Saturday, special events shall observe all other regulations provided for herein.
- RC2-7. **Internal noise mitigation design features.**
- A. Self-closing, double-doors for all ingress-egress.
 - B. All windows and similar features shall be unopenable, except for south-facing doors and windows, and other doors required for ingress-egress.
 - C. All windows shall have multiple-glazing
 - D. Ceilings and walls shall have sound-absorbing structures throughout.
 - E. The building shall have capability to be fully enclosed, to comply with STC 50.
 - F. A roof designed to STC 50 shall cover the entire building; no outside patios.
- RC2-8. **External noise mitigation design features**
- A. The building shall not encroach into the public right of way, except for features such as awnings and signs, as permitted by MBMC 7.36.170 (A)(b).
 - B. No persons permitted on roof of the northwest carport, except for maintenance.
 - C. No storage permitted on roofs, long-term or short-term, such tables and chairs.
 - D. All roof-top equipment shall have acoustic baffling and cosmetic shielding, to ensure that resulting noise at property lines does not exceed permitted levels, nor that the installations create visual blight, as required by MBMC.

EXHIBIT A

PROPOSED NEIGHBORHOOD USE PERMIT FINDINGS AND CONDITIONS

- RC2-9. ***Noise compliance verification, all external openings closed.** Prior to issuance of the building permit, a certified acoustics engineer shall verify, that with all external openings closed, the building design provides 50 dB sound attenuation of airborne sound from interior to exterior, not merely the use of STC 50-rated materials. Prior to issuance of the occupancy certificate, a certified acoustics engineer shall verify by field test, that all facades and roofs provide 45 dB attenuation of airborne sound, measured as close to facades and roofs as feasible, in accordance with accepted standards. Future building modifications shall comply with this condition.
- RC2-10. ***Noise compliance verification, south-facing doors and windows open.** Prior to issuance of the building permit, a certified acoustics engineer shall verify, that with south-facing doors and windows open and the premises at full occupancy, sound on or outside the property lines shall not exceed standards set forth in the noise ordinance, nor as otherwise provided herein. Before issuance of an occupancy certificate, field tests verified by the certified acoustics engineer shall demonstrate compliance with the noise ordinance. Future building modifications shall comply with this condition.
- RC2-11. **Noncompliant noise.** In the event the premises do not comply with the noise ordinance, or with sound restrictions otherwise provided for herein, the city shall administratively amend the annual entertainment permit to ensure compliance.
- RC-3. *Hours of operation.** Except for premises opening and closing times, by means of the annual entertainment permit, the city may administratively further restrict hours of operation for all entertainment activities, including dancing, as provided for in Chapter 4.20 of MBMC. The city may not, however, administratively increase hours of operations of such activities, as set forth herein. Conditions *in italics* indicate items subject to regulation by the annual entertainment permit.
- A. Opening time: 8:00 AM everyday
 - B. Closing time: Midnight (0:00 AM) Sunday through Thursday;
and 1:00 AM Saturday and Sunday mornings
 - C. *End of alcohol service: Twenty (20) minutes before closing*
 - D. *Lights on and amplified sound off, including TV: Thirty (30) minutes before closing*
 - E. *All doors and windows closed: 8:00 PM to 8:00 AM, or whenever entertainment, dancing or amplified sound in progress, except background music and TV.*
 - F. All doors facing on Ocean Dr and Center Dr: Always closed, except for ingress-egress.
 - G. *Entertainment: Thursday through Saturday until thirty minutes before closing; on Sundays, ends at 8:00 PM*
 - H. *Dancing: Friday and Saturday only, until thirty (30) minutes before closing*
 - I. *Deliveries: Between 8:00 AM and 8:00 PM, Monday through Saturday only*
 - J. New Years Eve closing, dancing and entertainment: Only as permitted by ordinance.

RC-4. General Conditions.

- RC4-1. **Substantial Compliance.** The proposed changes shall be in substantial conformance with the plans submitted, the project description and revised entertainment permit, as approved by the Planning Commission, subject to any special conditions set forth in this amendment.

EXHIBIT A
PROPOSED NEIGHBORHOOD USE PERMIT FINDINGS AND CONDITIONS

- RC4-2. **Food Service.** During all hours of alcohol service, the restaurant shall provided food service, at a minimum, from a limited, but significant, selection on the full menu.
- RC4-3. **Occupancy.** MBFD shall determine occupancy based on reduction of floor area by all seating and table furnishings, as depicted in the submitted plans approved by the Planning Commission. These or similar furnishings shall remain in place at all times, except on the 240 SF dance floor and the area north of it on Level 1.
- RC4-4. **Delivery and trash pickup.** The premises shall not provide a repository for trash from any other business. Delivery and trash locations shall be chosen to minimize impact on the residential neighborhood.
- RC4-5. **Carport.** The carport shall remain available for parking at all times; long-term or short-term storage not permitted, such as tables and chairs.

RC-5. Ingress-egress control.

- RC5-1. **Outside crowd control.** At 11 PM every day, until a half-hour after close, a staff member shall monitor the outside ingress-egress area and encourage patrons not to enter the residential area. Staff shall have a walky-talky to alert management of problems, such as too much external noise or a disturbance requiring MBPD response.
- RC5-2. **Temporary signage to discourage residential entry.** To assist the outside staff monitor, temporary signs on either side of Ocean Drive shall request no entry to residential area.
- RC5-3. **Valet.** Valet service is not permitted.
- RC5-4. **Bussing Patrons.** The restaurant shall not transport patrons to and from the premises, by any means.
- RC5-5. **Queues.** *[To be determined]*

SURVEY OF DOWNTOWN EATING AND DRINKING ESTABLISHMENTS

Estabilishment	Address	Hours of Operation	Alcohol License	Reso. #
900 Manhattan Club/Sidedoor	900 Manhattan Ave.	M-Th 11am-12 am F 11am-1 am Sat 9am-12am Sun 9am-12am	Full Liquor	CC Reso. 5155
Crème de la Crepe	1140 Highland Ave.	Su-Th 6am-10pm F-Sa 6am-11pm	Beer and Wine	02-14
Beaches	117 Manhattan Beach Blvd.	M-F 10am-1am Sa-Sun 8 am-1am	Full Liquor	CC Reso 5087 PC 243
Café Pierre	317 Manhattan Beach Blvd.	9am-1am Daily	Full Liquor	94-20
Pasta Pomodoro	401 Manhattan Beach Blvd.	Sun-Wed 9am-11pm Thu-Sat 7am-12am	Beer and Wine	03-05
Simmzy's	229 Manhattan Beach Blvd.	M-Th 6am - 11pm F-Sa 6am-12am	Beer and Wine	03-20
El Sombrero	1005 Manhattan Ave.	Su-Th 7am-11pm F-Sa 7am-12am	Beer and Wine	07-09
Ercoles	1101 Manhattan Ave.	11am-2am Daily	Full Liquor	85-32
Fonzs	1017 Manhattan Ave.	Su 9am-9pm M-Th 5:30am-10pm F-Sa 5:30am-11pm	Full Liquor	01-04
Mr. Cecils California Ribs	1209 Highland Ave.	Sun-Th 7am-11pm F-Sat 7am-12am	Beer and Wine	99-09
Hennesseys	313 Manhattan Beach Blvd.	11am-2am Daily	Full Liquor	83-18
Fusion Sushi	1150 Morningside Dr.	Su-W 9am -11pm Th-Sa 7am-12am	Full Liquor	03-05
Kettle	1138 Highland Ave.	24 Hours Daily	Beer and Wine	83-06
Le Pain Quotidien	451 Manhattan Beach Blvd.	M-Sun 7 am -7:30 PM- (alcohol 10 am)	Limited beer and wine	08-08
Mama D's	1125 A Manhattan Ave.	7am-2am Daily	Beer and Wine	CC Reso. 5175
Mangiamo	128 Manhattan Beach Blvd.	8am-12am Daily	Full Liquor	83-28
Brewco	124 Manhattan Beach Blvd.	Su-Sa 7am-12am F-Sat 7am-1am	Full Liquor	97-43
Sharks Cove	309 Manhattan Beach Blvd.	7am-2am Daily	Full Liquor	03-24
Manhattan Pizzeria	133 Manhattan Beach Blvd.	6am-2am Daily	Beer and Wine	CC Reso. 5175 86-38
Mucho	903 Manhattan Ave.	Su-T 11am-12am F-Sat 11am-2am	Full Liquor	CC Reso. 4108
Izaka-Ya	1133 Highland Ave.	Su-W 11:00am-11pm Th-Sa 11:00pm-12am	Beer and Wine	10-04
Old Venice/El Sombrero	1001 Manhattan Ave.	Sun-Thu 7am-11pm Fri-Sat 7am-12am	Beer and Wine	07-09
Penny Lane	820 Manhattan Ave.	Su-Th 7am-10:30pm F-Sa 7am-11:30pm	Beer and Wine	89-23
Rock N Fish	120 Manhattan Beach Blvd.	Su-Th 7am-12am F-Sa 7am-1am	Full Liquor	99-04
Shellback	116 Manhattan Beach Blvd.	No Reso	Full Liquor	No Reso

EXHIBIT D
PC Mth. 4/26/11

Sun & Moon Café	1131 Manhattan Ave.	Su-Th 6am-11pm F-Sa 6am-12am	Beer and Wine	CC Reso. 5175
Talia's	1148 Manhattan Ave.	Su-W 7am-11pm Th-Sa 7am-12am	Full Liquor	01-24
Memphis	1142 Manhattan Ave.	M-W 11am-11pm Th-F 11am-12am Sa 7am-12am Su 7am-11pm	Full Liquor	99-20
12th+Highland	304 12th Street	Su-Th 10am-12am F-Sa 10am-1am	Full Liquor	87-36
Wahoo's	1129 Manhattan Ave.	Su-Th 6am-11pm F-Sa 6am-12am	Beer and Wine	CC Reso. 5312
Darren's	1141 Manhattan Ave.	Su-Th 11am-11pm F-Sa 11am-12am	Full Liquor	02-28
Shade Hotel	1221 Valley Drive	Zinc Lobby Bar, Terrace, Conf Room and Courtyard-(Special Events)- Su-Th 6am-11pm, F, S and Sun before Mem and Labor days 12am midnight. Courtyard-(Functions)and Roofdeck Daily 6am-10pm	Full Liquor	02-18
Petro's	451 Manhattan Beach Blvd Suite B-110	Su-Th 6am-12 am F-Sa 6am-1am Off-site specialty wine	Full Liquor	06-20
Sashi	451 Manhattan Beach Blvd Suite D-126 1200 Morningside	Su-Th 6am-11pm F-Sa 6am-12am	Full Liquor	02-18

Eric Haaland

From: tlivian@aol.com
Sent: Monday, February 14, 2011 4:22 PM
To: List - Planning Commission
Cc: Richard Thompson; Eric Haaland
Subject: Strata Proposal

To whom it may concern:

Since we will be out of town to support the Feb 23rd meeting on the Strata proposal we wanted to send a note that as owners of 124 12th Street Unit A we are very concerned about the planned Strata proposal. We are supportive of putting in the proper soundproofing to keep the noise levels down and safeguards to minimize the unruly behavior that impact our neighborhood. We fully support the conditions proposed in our neighborhood use permit. Thanks for your support and consideration to put these conditions in place to protect our neighbors and community.

Sincerely, Tracy and Andy Livian

02/15/2011

EXHIBIT
E PC 2/23/11