

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
APRIL 23, 2014**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 23rd day of April, 2014, at the hour of 6:30 p.m., in the Manhattan Beach Police and Fire Community Room, at 400 15th Street, in said City.

1. ROLL CALL

Present: Andreani, Gross, Ortmann, Chairperson Conaway
Absent: Paralusz
Staff Present: Richard Thompson, Community Development Director
Laurie Jester, Planning Manager
Tony Olmos, Director of Public Works
Rosemary Lackow, Recording Secretary

2. REORGANIZATION

04/23/14-1 Reorganization of Commission Officers

Chairperson Conaway announced the reorganization of the Commission.

Commissioner Gross expressed his appreciation for the privilege of being able to serve as the next Chair and to Chairperson Conaway for his service, exercising patience, firmness and calm leadership and having special skills as a practicing architect with knowledge of environmental issues. Commissioner Gross presented Chairperson Conaway with a certificate of appreciation who in turn responded with his appreciation in being able to serve as Chair and thanks to his fellow commissioners, staff and the public. Commissioner Andreani noted, and Commissioner Ortmann echoed, her appreciation for outgoing Chairperson Conaway's ability to listen to all sides and overall effectiveness.

Commissioner Gross and Chairperson Conaway exchanged seats, completing the reorganization. Director Thompson announced that Commissioner Ortmann will now serve as Vice Chair.

Chairperson Gross explained the protocols for the public hearings, including time allotments (3 minutes for speakers unless representing a group in which case, 15 minutes) and all speakers will be expected to show respect and refrain from any disparaging comments. Commissioner Conaway agreed to serve as timekeeper and give warnings before time expires.

AUDIENCE PARTICIPATION

Viet Ngo, anti-corruption advocate, suggested that, in the spirit of justice and the letter of the law, all five Commissioners should resign because he believes that their comments made during and/or after the March hearing on The 900 Club are violations of either the Brown Act or due process.

3. APPROVAL OF MINUTES – April 9, 2014

The following changes were requested by the Commission:

Commissioner Andreani requested: 1) Pg. 8, second paragraph from top be revised to read: "It was ~~her~~ Commissioner Andreani's feeling. ...2) Pg. 9, second paragraph from the bottom to read: "Commissioner Andreani would like to know how if glare will occur from morning sun shining on glass on the east side and from afternoon sun on the Sepulveda side of the building will occur. 3) same paragraph, last line to read: " She indicated she does really-cares about the viability of the dealership and the corridor."

Commissioner Conaway requested: 1) Pg. 1, bottom, a page break be inserted between the vote of minutes and the first public hearing item (and also relocate the heading “4. PUBLIC HEARING” from following to preceding the Strand improvement project item); 2) Pg. 6 in the Kowata testimony: change “relate” to “related” in the first line and change “achieving” to “achieve” in the last line; 3) Pg. 9, 6th paragraph, last line to read: “...Toyota is not being more proactive with incorporating new technologies technology and show a desire to meet go beyond code minimums.

Commissioner Gross requested: 1) Pg. 6, second paragraph, second line to read “....can satisfy the requirements both of both Toyota and of the City.” 2) same page, in paragraph 7 revise the end of the sentence to read “...to locate mechanical HVAC equipment because of structural limitations”. 3) Pg. 10, second full paragraph to read “He would also appreciate a better understanding of ~~from~~ the owner’s perspective.”

A motion was MADE and SECONDED (Andreani/Ortmann) to **APPROVE** the minutes of April 9, 2014, as amended.

AYES: Andreani, Conaway, Ortmann, Chairperson Gross
NOES: None
ABSENT: Paralusz
ABSTAIN: None

4. GENERAL BUSINESS

04/23/14-3. Determination of Consistency of the Proposed Fiscal Year 2014-2015 Capital Improvement Plan with the Manhattan Beach General Plan

Director Thompson introduced this item, explaining that the role of the Planning Commission is to determine if the CIP is consistent with the General Plan. Public Works Director Tony Olmos made a power point presentation, summarizing the written Staff Report and recommendation to adopt draft Resolution PC 14-XX determining that the proposed CIP is consistent with the City’s General Plan. The Director’s report was followed by questions of Mr. Olmos from the Commission.

Director Olmos clarified for Commissioner Ortmann that the \$100,000 is for non-motorized transportation projects such as bike lane improvements that may come up during the fiscal year. The amount is a placeholder and this amount could change if the Council decides to do more in this area.

Director Olmos responded to Commissioner Andreani that \$400,000 budgeted for Fire Station 2 is for design development of a new station while \$30,000 is for interim improvements to the existing facility.

Director Olmos responded to Commissioner Conaway’s two concerns: first that the budget for storm water projects is small because funding sources for this work comes from limited stormwater funds and must compete for general funds. There is concern and uncertainty as to what the City funding needs will be in order to comply with the new County stormwater permit. Secondly, regarding City facilities, the CIP plan reflects a facilities study finding that overall, other than the civic center library, facilities do not need replacement.

Chairperson Gross recalled the Facilities Strategic Plan and that the Library, identified in the plan as a top priority is now being rebuilt and observed that the City has prudently invested in its facilities and infrastructure and staff has also been successful in obtaining grant funding for projects.

Chairperson Gross opened the hearing to public comment.

Viet Ngo, anti-corruption advocate suggested that the Planning Commission take no action until it has more information.

Chairperson Gross reminded everyone that the matter before the Planning Commission is only whether the program is consistent with the General Plan.

A motion was **MADE** and **SECONDED** (Andreani/Conaway) to **ADOPT** Resolution PC 14-XX, finding that the 2014- 2015 CIP program is consistent with the General Plan.

AYES: Andreani, Conaway, Ortmann, Chairperson Gross
NOES: None
ABSENT: Paralusz
ABSTAIN: None

5. PUBLIC HEARINGS

04/23/14-4. Consideration of a Master Use Permit Amendment and Possible Modifications, Including but not Limited to: Noise Mitigation Measures, Hours of Operation, Food Service, Special Events, and Alcohol Service at the Shade Hotel, Metlox Site, 1221 North Valley Drive (Manhattan Inn Operation Company, LLC- Michael A. Zislis, Owner)

Director Thompson introduced this item, a Master Use Permit Amendment with possible modifications that relate to noise mitigation, hours of operation, food service, special events, and alcohol service.

Planning Manager Laurie Jester proceeded with the detailed report, aided by power point slides. Ms. Jester indicated tonight's meeting would cover a status and update and the draft conditions, the public hearing will be conducted and finally Staff requests that the Commission provide direction to Staff based on input received. Staff would bring back a draft Resolution at the next meeting for final review and action.

Staff responded to questions from the Planning Commission as follows:

Planning Manager Jester responded to Commissioner Conaway that she could not recall a case where a condition was imposed to limit a closing time of a business specifically to mitigate noise and noted that the entire operation of The Shade, because it is a hotel and active on a 24-hour basis, needs to be evaluated.

Director Thompson responded to Commissioner Ortmann's concern as to how the Planning Commission can formulate a Resolution that has "teeth" for enforcement, but which reasonably satisfies the applicant and neighbors without resulting in a situation like in 2010. Mr. Thompson stated that the Commission's role is to impose conditions that it feels are needed to make the code required findings for the project, and anyone who is not satisfied with the Commission's decision, including the applicant, the City Council or any other person, has the right to appeal.

Director Thompson clarified for Commissioner Andreani that the City Attorney's input will be included in the final Resolution presented to the Commission, but tonight's focus is on the conditions, not the findings.

In response to an inquiry from Chairperson Gross about how conditions proposed for the Shade compare to the Marriott and Belamar hotels, Planning Manager Jester summarized that at the Belamar, the bar and restaurant operating conditions are less strict than those at The Shade, but the conditions imposed on the special events for the Belamar are more strict. It was also clarified that there are other hotels in town, but these two are noted because, like The Shade, have areas used for special events and are located next to residential properties.

PUBLIC TESTIMONY

Chairperson Gross opened the public hearing and invited the applicant to address the Planning Commission.

Michael Zislis, operator of Shade Hotel, has withdrawn the request to increase the occupancy for The Terrace. He feels that the staff report and Behrens acoustical report lead one to conclude that there is no significant noise issue. He believes he has been a good neighbor and has agreed to \$200,000 in noise abatement measures. He is very concerned about creating a definition of “closing” that would curtail his current operating hours, because it takes about an hour to completely clear an area of patrons.

Sheri Bonstelle, attorney for Mr. Zislis, stated that the applicant’s goal tonight was to come to a decision about conditions so that staff can draft a full and complete resolution for consideration next month. She went over the City’s noise code standards and stated that the applicant does not believe that the hotel has violated this standard. She summarized there are five conditions that Mr. Zislis is not in agreement with: 5, 7, 12, 18 and 19 but he is in agreement with all others.

Mr. Zislis responded to Commissioner Conaway, stating that he is on his second set of Terrace curtains and suggested that replacement of curtains only be required if it is determined that they are not working to mitigate noise. In response to Chairperson Gross, **Mr. Zislis** stated that his main issue is the proposed definition of “closed”.

Director Thompson indicated, in response to an inquiry from Commissioner Ortmann, that occupancies have been unchanged for the Shade. Regarding having a closing hour of operation in the conditions, Mr. Thompson stated this is a relatively new type of condition requested in recent years by the Police Department and Director Thompson acknowledged it takes time to get patrons out of an establishment.

Chairperson Gross announced that only the public testimony portion of the public hearing will be closed tonight. Chairperson Gross invited the public to speak, noting that residents who are standing for a group of people will have 15 minutes to speak, and all others, 3 minutes.

Nate Hubbard, neighbor representing several households stated concerns: if approved as requested, the hotel will be granted an occupancy increase, have longer hours, and expanded food service, but a sound proof enclosure would be removed from the Zinc lounge. He requested that the City impose an inaudibility standard of 75 feet, have the Terrace ground level fully enclosed with acoustic glass and drapes and retrofit the lobby façade with acoustic glass panels and doors.

Don McPherson 1014 1st Street, submitted written testimony stating many concerns about conditions, including 17 and 18, and requested that the public hearing be continued to a date certain in June.

Stephanie Hubbard, 1300 Ardmore stated her main concern is the Terrace and, more noise if more people are allowed. If noise can be properly addressed she has no concern regarding the food service. She urged that noise be dealt with as with the applicant’s business at the Strand House.

Cheryll Lynn, 1140 ½ Ardmore spoke for other neighbors, and noted the main issue is noise especially from the south side of The Terrace, with the worst conditions occurring during the summer, in warm weather. Ms. Lynn stated that noise is largely dependent on the weather.

Steve Wible, 1212 N. Ardmore, retired building inspector, has been dealing with noise which is a nuisance. He would like to see everything at the hotel stay the same until the noise is remedied.

Michelle Murphy, 4410 The Strand is outraged that the project went from a quiet bed and breakfast to a noisy hotel and doesn’t understand why the 2010 resolution isn’t enforceable, urged that noise meters be acquired and suggested that the hours of the Belamar (9 am to 11 pm) should be applied to The Shade and urged that the occupancy issue be clarified.

Neal Boyer, resident near Mira Costa is outraged that this has been going on for nine years and that the project has morphed to the current use.

Viet Ngo anti-corruption advocate, urged that Commissioner Andreani abstain due to conflict of interest and believes that the approval in 2005 of the hotel is in conflict with the original environmental review.

Bill Victor, resident, stated his disappointment to hear that the hotel has obtained incremental entitlements and doesn't feel the report is complete.

Milo Basic, 432 10th Place, resident and an applicant, spoke in support of The Shade, noting that the management has taken many steps to solve problems. He believes the noise issue has recently improved greatly and the issue of closing time is very important.

Stephanie Hubbard, 1300 Ardmore clarified that she believes that the reason so many people are here tonight is out of concern that the Use Permit will allow more people and more operating hours and this will result in even more noise.

Tom Corbishley, Noise consultant, Behrens and Associates, addressed the Commission regarding the noise mitigation analysis which he authored. They analyzed several scenarios of mitigation, in addition to the Terrace modifications and front entry vestibule/revolving door previously studied, and the end result is the only really effective additional mitigation would be a combination of upgraded acoustical curtains and entryway for The Terrace. This would reduce the noise level by estimated 13 dB but only if used in combination.

Mr. Corbishley talked about the noise study in 2009 and that the highest noise level for the two greatest sources (the main entrance on Valley and the south Terrace) was about 50 dB without mitigations, measured in September. He went through the color maps, noting that an associated 5dB decrease is an industry standard for a measure to be considered useful as mitigation and a 10dB decrease is a detectable improvement. The canopy and the living wall are not useful, and the revolving door would have a 5dB reduction. The best case is around 40dB, and that would be equivalent to night traffic noise.

Commissioner Conaway stated that he understands the technical objective standard but would find it helpful to better understand what types of noises annoy the neighbors under the subjective standard.

Tom Corbishley noted that there are many factors involved in the subjective standard and it is very complicated. People are different, and relate and react to noise differently. Other factors include the tone of the noise but an even greater factor, as an example, can be whether the resident bought the home before or after a noise source was established.

Director Thompson suggested that the Commission move on to conducting discussion and accepting rebuttal from the applicant. At the next meeting, the acoustic engineer could address more clearly what types of measures would be a benefit to the residents and what is worth the investment.

Commissioner Andreani had a question for the noise consultant, but Director Thompson suggested that this question be held until staff has a chance to respond with more information, including input from the City Attorney regarding the letter received from the applicant's legal counsel.

Michael Zislis indicated that he was happy to answer any questions. In response to a question from Commissioner Ortmann, Mr. Zislis indicated that he reached out to Mr. Hubbard by phone and has met with the City staff.

Mr. Zislis suggested that his attorney address all issues that he has with the conditions of approval that they disagree with and they are ready to have that discussion now.

Chairperson Gross polled the Commission as to whether they were ready to go through the conditions. Commissioner Conaway stated that he was not ready, but Commissioner Andreani thought that aside from noise mitigation issues, it would be helpful to hear from the applicant's attorney. Commissioner Ortmann stated that he is not sure he has enough information, and he also believes that many of the conditions including those other than noise are still related to noise and these should not be separated. Commissioner Conaway agreed, and requested more information on the Terrace and its current operations.

Michael Zislis stated the Terrace operating hours are 7 a.m. to 10 or 11 p.m. daily.

Chair Gross invited The Shade's attorney to address the Commission.

Sheri Bonstelle, Jeffer Mangels Butler and Mitchell LLP, suggested on behalf of the applicant that more time is needed but she is prepared to go through the operational issues in the conditions Mr. Zislis objects to, and then she will address other legal issues in her one-minute rebuttal.

Katie Kruff-Richardson, Executive Vice President, Zislis Group and **Ms. Bonatelle**, addressed the following conditions of approval (COA) by page in the draft Resolution:

- Pg. 2. COA 5: concerns include: the requirement of a 3 month period in which to have mitigations complete – in that they are not sure if 3 months is reasonable and would like discussion on why there are limitations on their existing rights during this period. She is also concerned that The Shade may already have clients that have contracts for events during this period who may be affected.
- Pg. 3. COA 7: only issue is with the Skydeck and the concern is that this may only be allowing background music and if this is the intent, then this will be a very costly limitation.
- Pg. 4. COA 12: is philosophically against this condition with a distance of 150 feet - they do not want to be held to a standard that no other business is held to. This standard of 150 feet will trigger the right for a complaint. She suggested that staff look for an alternative standard that can be equally applied to all businesses.
- Pg. 5. COA 18: definition of “closed”: this will affect the Skydeck significantly and because it takes some time to completely clear this area, this will take away between 30 and 60 minutes from their operating time. Because this definition has this effect and is now proposed by staff, the applicant is requesting to extend the operating hours in the evening (condition 19).
- Pg. 5. COA 17: Noise compliance verification: Ms. Bonatelle objected to the way this is written on the basis that it is not consistent with the standard of the use permits in planning policy. Typically mitigation measures are identified up front and then in the future there is a check for compliance and correction may be required but it is very irregular to have the Use Permit open for additional mitigation measures into the future. Future noise complaints after implementation should be handled as code violations.
- Pg. 9, COA 35: Review and Violations. Ms. Bonatelle suggested that this required one-year review by the Planning Commission not be mandatory in the event everyone is satisfied or perhaps it could be required based on a specific trigger, e.g. if requested by the neighbors through the Community Development Director.

In response to the Chair's request for clarification, Ms. Bonstelle suggested that possibly just the first sentence in COA 17 should apply, with verification of compliance at the discretion of the Director. Chair Gross explained the Planning Commission's goal is to end the noise problems with mitigation measures but towards this end, the Commission anticipates if the measures do not end the problems, that there should be some process to continue to find effective solutions. Ms. Bonstelle registered her objection to this approach and Chairperson Gross noted that he understood her position and will leave this to be worked out with Staff. Ms. Bonstelle clarified that condition 19 relates to condition 18 in that a later hour (beyond 10 pm) is requested for the Skydeck if the proposed definition of “closed” is adopted.

Chairperson Gross requested and Ms. Bonstelle confirmed that, with the exception of COA's 5, 7, 12, 17, 18, 19 and 35, the applicant is in agreement with the Resolution conditions. Chairperson Gross acknowledged that these are open items and can direct Staff accordingly.

Chairperson Gross announced a 5-minute break at 9:40 and Chairperson Gross reconvened the Planning Commission at 9:50 p.m.

Chairperson Gross invited the senior noise consultant to address the Commission.

Don Behrens, 801 Highview, Behrens and Associates and City resident, stated he wants to help everyone understand better how to quantify possible noise mitigation measures. His main points were:

- Three measures that will **not** be effective and are not economically viable are: 1) physically enclosing the Skydeck; 2) adding canopies at the front; and 3) adding a “living Wall” next to Petros.

- Three measures that **will** be effective are: 1) closing the front entrance with either a vestibule or rotating door; 2) closing the opening between the front desk and the doors with acoustically rated material; and 3) acoustically treating or sealing the east wall, south east corner, and ceiling of the Terrace. Mr. Behrens explained that acoustical curtains will also contribute to mitigation by absorbing and containing sound and should go as high as the Fire Department will allow.
- With all of the above in combination implemented, a maximum 13 dB reduction is achievable.
- Even with a 13 dB reduction for Shade, background ambient noise in the town square area will still be at about 46 dB.
- The “human factor” will always be present, presenting impulsive and intermittent sound, but from an acoustical point of view, their strategy is to improve absorption of sound on the premises by using certain acoustical materials, and sealing up openings to prevent leakage of sound.
- Beyond these physical changes which can help reduce noise from an objective noise standard perspective, there is still the subjective noise standard to consider. A big factor in addressing that will be the operational conditions.

At Chairperson Gross’s request Planning Manager Jester clarified the height of the curtains at the entrance steps onto the Terrace on the south side would be 12 feet off the ground which creates an opening for egress required by the Building Safety Division. Except for this entrance, and no curtains on the west side, the curtains would be as they are now and that is what the noise modelling was based on.

In response to questions from Commissioner Andreani, it was explained that the open area for existing and ventilation is about 10 feet by 12 feet.

Director Thompson summed up the measures that have been included in the plans that the applicant has submitted to the City for plan check and so far the measures appear doable. Staff suggested that the Commission discuss the conditions of approval, perhaps starting with those that are **not** agreed upon by the applicant.

Chairperson Gross closed the public testimony portion of the public hearing and suggested that the Commission start a discussion, and first identify the conditions that no one seems to have a problem with which he believes include: 1, 2 (appears as 6), 3,4,14, 21, 22, 23, 24, 26, 28, 29, 30, 31, 33, and 34. In addition, Chairperson Gross noted that the neighbors are on record as requesting other items in the conditions including definitions of “guest” and “invitee” and a requirement “that there be no spillover to the Terrace from anything”.

Chairperson Gross then summarized seven conditions not acceptable to the applicant: 5, 7, 12, 17, 18, 19 and 35. Director Thompson indicated that staff will come back with some suggestions for those conditions.

Chairperson Gross requested input from the Commission.

COMMISSION DISCUSSION

Commissioner Conaway stated while he was prepared to review the noise mitigation measures. He is somewhat concerned that the basic goal of the hotel to provide a hospitable environment seems to be getting lost amid the search for noise solutions that are becoming more complex and technical. He requested that staff make the Resolution as simple and consolidated as possible, but with reasonable mitigation measures incorporated. He feels they are close on the technical mitigations, but feels there has to be more discussion on the operational aspects of noise mitigations. He wants the applicant to understand that once the party goes outside the building this intensifies the noise. Commissioner Conaway stated his agreement with Mr. Behrens’ statement that noise will not be 100% solved with physical technical changes as there will be other noise sources outside the control of the Shade. Commissioner Conaway asked the applicant to understand that the Planning Commission needs to do their due diligence and also to implement as many measures as possible.

Commissioner Andreani agreed with Commissioner Conaway and suggested that the Planning Commission look carefully at some operational and administrative issues and work on defining “closed”, “registered guest”, or “event guest” and suggested that to make a more concise Resolution, and that the definitions be consolidated.

Commissioner Ortmann agreed with Commissioner Conaway’s points, and is concerned that a key piece is missing from the process which is a progressive dialogue between the applicant and the neighbors to solve problems. He suggested that there be consideration to re-starting dialogue between the hotel and the community and on both sides. Some personalities might consider stepping back from the process for now. Commissioner Ortmann believes that doing this may foster an opportunity to reach common ground.

Chairperson Gross raised the hours of operation and stated that, while a definition of “closed” is needed, he is concerned that this will impact the effective operational hours. He suggested and if the rest of the Commission agrees that staff be given some flexibility in working out the hours of operation. His reasoning is that if they can solve the noise problem for 11:00 pm it will also be solved for midnight. There should be a clear rationale for the hours, whether it be based on the Metlox or Belamar hours, but believes progress can be made if there is some flexibility given.

Commissioner Andreani stated her disagreement with the idea that if you solve the problem at 11:00 pm you also solve it at midnight because they need to also deal with the occasional or intermittent noise issues and therefore need to look carefully at the special events. She believes one “blanket” closing time will not solve the problems.

Chairperson Gross narrowed his suggestion, and stating that instead of the entire operation, that flexibility be afforded only to the hours of the Zinc Lounge for two reasons: it is a totally enclosed space and it is an integral part of the hotel for the 24-hour hotel guest which is their primary use and as Commissioner Conaway stated, part of the hospitality element. He doesn’t believe you can differentiate between “guest” and others. Expanding the hours on the Skydeck and Terrace and perhaps also in the courtyard will not work.

Commissioner Ortmann indicated his concern that the Resolution may be getting too complicated and needs to be simplified and noted a resident’s comment that it doesn’t matter what is done on the premises as long as the neighbors can’t hear it. Commissioner Ortmann believes staff should be given the ability to work with the applicant in terms of closing times, based on the hours in place today. He is not comfortable tonight with getting too deep into details.

Commissioner Andreani restated her opinion that definitions are needed, for example for “closed” and “hours of operation” and “guest” with differentiation between a registered hotel guest and an invitee (of a guest) and the definitions should be part of a workable framework that the Police Department can use to enforce the Use Permit.

Commissioner Conaway agreed with Commissioner Andreani that the Resolution should be enforceable and suggested starting with the definition of “closed”. He is uncomfortable with closing at a certain time with an added time period for clearing the premises. Commissioner Conaway requested that a definition be applied so that there is a universal standard for enforcement. For example, there can be a time when alcohol service must cease, after which staff could stay. Such a definition has been discussed in the 900 Club hearing.

Commissioner Andreani agreed with Commissioner Conaway and perhaps once “closed” is defined and established then the applicant would need to start the process of closing 30 minutes or so beforehand.

Chairperson Gross again asked how the Commissioners felt about granting flexibility.

Commissioner Conaway stated that he is not ready to answer that, but perhaps they need to start with defining “closed”.

Director Thompson suggested that the Commission redirect its focus on conditions that specifically relate to lessening noise impacts to the residents. He suggested that the Planning Commission focus on general thresholds of impacts that trigger the need for some mitigation, and not the applicant's operation of the hotel.

Commissioner Andreani started by summarizing the places on the site where noise is an issue: the front entrance, the Skydeck, and the Terrace and requested that staff propose thresholds for these areas and also noted that operationally special events should also be looked at, as the City does for the beach events.

Chairperson Gross believes that condition 12 (sound audibility) needs attention and how it currently reads having "audibility" with a distance as a threshold sets up a trap. He believes that this should read more like the noise ordinance. He doesn't believe that the code itself has a distance audibility standard threshold applicable to commercial properties and he also doesn't believe that the Strand House should set a precedent.

Commissioner Conaway raised the issue of marketing of full service food service and whether the Commission feels this is an intensification of use that should be addressed?

Commissioner Ortmann responded that based on input from neighbors he is concerned that the use of the hotel has changed but is not sure that having a full service restaurant is creating the impacts to residents and believes generally that to the extent that they can, he would like to see the Commission stay out of the operations of the hotel and focus on direct impacts to residents.

Commissioner Andreani agreed with both Commissioners Conaway and Ortmann, acknowledging that the restaurant use permit for Metlox Plaza states that there be only two restaurants, and this issue needs to be addressed along with compliance with the Master Use Permit.

Director Thompson stated that staff examined and determined that The Shade hotel is in compliance with the Master Use Permit, finding that the proposal constitutes incidental food service for the hotel. Mr. Thompson also explained that while there was an initial concept to have a bed and breakfast for this site, in the initial hearings it was found to be economically not viable, and the changes to a hotel with events and other services was approved by the Planning Commission and City Council through the public hearing process.

Chairperson Gross stated his agreement with Commissioner Ortmann about food service and stated that he does not believe it is the charter of the Planning Commission to deal with the past issues. Rather their charter is what is happening now and in the future. He doesn't believe there is a lot of difference between what is being done now and the scope of the use in the current Resolution.

Commissioner Conaway stated he is not entirely in agreement with the Chair's comments and believes that to make an informed decision about incremental changes before the Commission, the past approvals in 2002 and 2005 are important.

Commissioner Andreani suggested a motion be made to continue the public hearing to a date certain and have Staff prepare the conditions and findings identified in a draft resolution. Director Thompson indicated that staff can do as suggested and recommended May 28 as the continued hearing date.

ACTION

A motion was **MADE** and **SECONDED** (Andreani/Conaway) to reopen and continue the public hearing on the Shade Hotel to May 28th.

AYES: Andreani, Conaway, Ortmann, Chairperson Gross
NOES: None
ABSENT: Paralusz
ABSTAIN: None

Chairperson Gross thanked all those who attended and provided input tonight and they will have another chance to give input on May 28th.

5. **DIRECTOR'S ITEMS** – none to report.
6. **PLANNING COMMISSION ITEMS** - none to report.
7. **TENTATIVE AGENDA** – May 14, 2014
 - a. 900 Club
 - b. Toyota Dealership

8. **ADJOURNMENT**

The meeting was adjourned at 10:50 pm. to Wednesday, May 14, 2014, in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director