

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development
Laurie B. Jester, Planning Manager

DATE: May 28, 2014

SUBJECT: 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)

RECOMMENDATION

Staff recommends that the Planning Commission **OPEN THE CONTINUED PUBLIC HEARING, DISCUSS AND ADOPT THE RESOLUTION APPROVING THE USE PERMIT AMENDMENT WITH CONDTIONS.**

PROPERTY OWNER

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

APPLICANT

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

PROJECT OVERVIEW

A Master Use Permit for the Metlox project was approved by the City Council in July 2002 and includes a two-story subterranean public parking structure accommodating approximately 460 cars with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area. The commercial development includes a 38-room hotel, the Shade Hotel. An Amendment to the Master Use Permit was approved in 2005, a 2010 Amendment was never implemented and it expired, and therefore the 2002 Use Permit, as amended in 2005, is still in effect.

The objective of tonight's meeting is to present the draft Resolution with revised conditions based on the direction and input from the Planning Commission at the April 23rd meeting, as well as input provided by the applicants attorney. The draft Resolution was provided to the applicant and neighbors one day prior to the distribution of this Planning Commission packet to offer an opportunity for them to review and discuss the revisions prior to the meeting. This meeting will provide an opportunity for public comment on the revised conditions and Resolution.

Original Use Permit Request

The original request for an Amendment to the existing Master Use Permit from the Shade Hotel is outlined below. Through the public hearing process this request has been modified by the applicant.

1. **Noise Mitigation Measures**-Revolving front door adjacent to Valley Drive (and a secondary non-revolving door for disabled access and oversized luggage), acoustic laminated glass on the wall next to the reception desk opposite the new accessible door to replace the open decorative wall, acoustic laminated glass enclosure on the southeast corner of the Terrace located from floor-to-ceiling, acoustic absorbent panels on the ceiling and suspended acoustic panel “clouds” below the ceiling of the Terrace, and curtains surrounding the Terrace in the areas where there is not a full glass enclosure.
2. **Full Food Service and Marketing**-Throughout the entire Hotel, breakfast, lunch and dinner open to the general public as well as hotel guests. In the Lounge and Terrace from 6 AM to 11 PM daily, and the Courtyard and Skydeck 8 AM to 10 PM; currently limited to breakfast and evening appetizers with limited hours. Allow posting of menus in front of the Terrace, and advertising, marketing and promotion of the full food service as well as the Lounge component of the Hotel; currently outside menu posting is not permitted and marketing is limited to attracting Hotel guests and event planners.
3. **Special Events on the Terrace**-Events until 11 pm Sunday through Thursday and until midnight Friday and Saturday; currently special events are not specified on the Terrace. Plans show a proposed occupancy of 90 occupants; currently the area is posted for 47 occupants.
4. **Later Alcohol Service on the Roofdeck**- Alcohol service on the roof (Skydeck) until 9:30 PM; currently the roof deck can serve alcohol until 9:00 PM, closing to remain at 10:00 PM.
5. **Awnings, curtains and decorative lighting**- Decorative perforated metal shade awnings on the south side of the Terrace extending over the walkway and partially over the Terrace, existing curtains floor to ceiling except shorter over the exit steps, and lights on support posts. Addition of a fiberglass canopy over the existing metal arches at the front entry off of Valley Drive.

Revisions

There are a few revisions to the original applicants request, including the option for a front door vestibule in lieu of a revolving door, full food service on the Terrace and several table in the Zinc Bar and Lobby, not throughout the entire hotel, retaining the existing Terrace curtains and replacing at a later date with acoustic curtains, retaining the current occupancy on the Terrace at 47 instead of increasing to 90, and no new fiberglass canopy over the existing metal arches at the front entry off of Valley Drive.

DISCUSSION

Planning Commission meeting April 23, 2014

At the last meeting, staff provided a status report and update on the application, and presented three draft sets of conditions from staff, the applicant and the residents. The Applicant and their attorney discussed a few of the draft conditions that they were not in agreement with, and expressed to the Commission their concern in particular regarding the proposed closing hours, as it takes about an hour to completely clear an area of patrons. A number of neighbors and other

residents spoke with their concerns regarding occupancy, hours, and food service, and specifically noise impacts. Comments from the public received since the last meeting are attached as Exhibit C. The Acoustical Engineers from Behrens and Associates provided a brief presentation on noise mitigation options that they studied, in addition to those originally presented to the Commission, and responded to questions from the Commission.

The Commission discussed the draft conditions and felt that it was important to provide more specific in the definitions, particularly with “closing” and hours, certain operational details, and refinement to the Use Permit, so that the conditions are not subject to interpretation and are easily enforceable. At the same time the Commission felt that it was important to balance the Hotels ability to provide guest services and a hospitality environment while minimizing impacts to the neighbors. The Commission indicated that outdoor area operations should be more restrictive when compared to the indoor areas, in which noise and other impacts could be more easily mitigated and therefore hours could be less restrictive. The minutes from the April 23, 2014 meeting are attached at Exhibit B.

Revisions to Conditions

Based on the direction received, staff revised the draft conditions. The key changes are outlined below and the draft Resolution, which includes the facts and Code required findings, is included at Exhibit A.

1. Special Events/function and required noise mitigation improvements- Condition No. 5
This condition was revised to provide 5 months instead of 3 months for the Applicant to complete all of the noise mitigation improvements. During this initial 5 month time frame no special events for functions may take place after 10:00 PM with more than 100 people unless they are already booked. After this initial 5 month period they may not occur at all until the improvements are complete.
2. Entertainment and Amplified Sound-Condition No. 6
Background music being limited to 65 dBA was eliminated as it is difficult to enforce, and not necessary, as the reasonable person standard in the Municipal Code is the standard that is used.
3. House System for Amplified Sound- Condition No. 7- New
This new condition requires that the system be reviewed and approved by the Director. Modifications to the system could be required to mitigate noise impacts.
4. Curtains- Condition No. 8
The existing curtains are required to be replaced with acoustic curtains within 3 years.
5. Sound Audibility- Condition No. 12
The section within this condition that requires that noise not be audible with 150 feet was deleted. It was determined that this provision would be too difficult to enforce as there are too many variables and noise sources in the area other than just the Shade Hotel.

6. Noise Compliance Verification- Condition No. 17
This condition has been simplified to have the Director and noise consultant determine if the noise mitigation is in compliance with the standards in the Noise reports.

7. Closing Definition and Hours-Conditions No. 18 and 19
 - a. **Indoor areas-** Zinc Bar and Lobby, and Conference Room,-
 - i. Revised from 6AM to 11 PM to 6AM to 12 AM (midnight)
 - ii. Sales, service and consumption of all food, drink and alcohol to stop at closing time. Staff only after closing time.
 - b. **Outdoor areas-** Terrace/Porch, Courtyard and Skydeck
 - i. Terrace/Porch- 6 AM to 10:30 PM
 - ii. Courtyard- 6 AM to 11 PM Sunday-Thursday and 6AM to 12 AM (midnight) Friday and Saturday- special events and functions only
 - iii. Skydeck- 8AM to 10:30 PM
 - iv. Sales and service of all food, drink and alcohol to stop 60 minutes prior to closing. Consumption ok up until closing. Staff only after closing.

8. Security- Condition No. 24
A third party security staff is required for any event or function over 50 people, instead of only for events over 100 people.

9. Review- Condition No. 35
A Public hearing will be required within one year after approval if needed, and a revocation/modification hearing may be initiated at any time if conditions are not complied with.

10. Terms Perpetual- Condition No. 39
The applicant is required to sign an affidavit agreeing to the conditions of approval within 30 days of the approval.

Representatives from the Police Department will be present at the meeting to respond to Commission questions.

Code Noise Standards

The Manhattan Beach Municipal Code provides two standards for evaluating noise. The first is a decibel level standards, and as an objective standard this is the standard that is used to evaluate impacts and mitigation in the Behrens reports (MBMC Section 5.48.160). A subjective, or “reasonable person standard”(MBMC Section 5.48.140) is also provided in the Code and these technical noise reports do not address the subjective standard. For land use decisions, such as this Master Use Permit Amendment, it is appropriate for the Planning Commission to consider all sorts of evidence. The Commission will consider the noise studies (the objective standards), as well as the neighbors and patrons testimony (the subjective standard). The Use Permit and General Plan purpose, findings, criteria, goals and policies should also be considered by the Commission when making the decision. Below is a link to the MBMC Section 5.48 that regulates Noise:

http://library.municode.com/HTML/16473/level2/TIT5SAHE_CH5.48NORE.html

CONCLUSION:

The project before the Planning Commission is an Amendment to the Master Use Permit for the Shade Hotel. Staff believes that the current operations of the Hotel have minimized impacts to the neighborhood. There is no evidence of recent noise violations and the hotel management has taken steps, such as an increase in security and modified sound systems, to successfully address and mitigate issues. Staff believes that the proposed conditions are a balanced approach that capture and reflect the current hotel operations, while clarifying the provisions of the Use Permit and requiring milestones to implement improvements to address concerns of the neighbors.

The objective of tonight’s meeting is to present the draft Resolution with revised conditions based on the direction and input from the Planning Commission at the last meeting. Staff recommends that the Planning Commission conduct the public hearing, discuss, and adopt the Resolution approving the Use Permit Amendment with conditions.

EXHIBITS:

- A. Draft Resolution – May 28, 2014
- B. Final minutes April 23, 2014
- C. Public comments
- D. Project concept Plans- February 4, 2014

- c: Mike Zislis- Shade Hotel
- Katie Kruft Richardson- Shade Hotel
- Jon Tolkin- Tolkin Group
- Glenn Loucks- Tolkin Group
- Eve Irvine- Police Chief
- Robert Espinosa- Fire Chief
- Sal Kaddorah- Building Official
- Don Behrens, Behrens and Associates
- Tom Corbishley, Behrens and Associates
- Quinn Barrow, Richards, Watson, Gershon
- Diana Varat, Richards, Watson, Gershon

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RESOLUTION NO. PC 14-XX

RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION APPROVING AN AMENDMENT TO A MASTER USE PERMIT ALLOWING NOISE MITIGATION MEASURES, FULL FOOD SERVICE AND MARKETING, SPECIAL EVENTS ON THE TERRACE, MODIFIED ALCOHOL SERVICE HOURS ON THE SKYDECK, AND INSTALLATION OF ARCHITECTURAL IMPROVEMENTS AT THE SHADE HOTEL, METLOX SITE, 1221 NORTH VALLEY DRIVE (MANHATTAN INN OPERATING COMPANY, LLC - MICHAEL A. ZISLIS, OWNER)

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

SECTION 1. The Planning Commission hereby makes the following findings:

- A. Manhattan Inn Operating Company, LLC (“Applicant”) seeks City approval of an amendment to the Master Use Permit for the Metlox project related to the Shade Hotel (“subject property”). Pursuant to Manhattan Beach Municipal Code Section 10.84, Planning Commission approval is required for the proposed modifications.
- B. The Planning Commission conducted public hearings regarding the application on February 14, March 12, April 23, and May 28, 2014. The public hearings were advertised pursuant to applicable law and testimony was invited and received.
- C. The original Master Use Permit was approved by the City Council in July 2002 through Resolution Nos. 5770 and 5771 and includes a two-story subterranean public parking structure with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area. The commercial development includes a 38-room hotel, the Shade Hotel.
- D. An Amendment to the Master Use Permit related to the Shade Hotel was approved in 2005 through Resolution No. PC 05-08.
- E. The Applicant seeks an Amendment in order to incorporate the following revisions to the Master Use Permit:

**ATTACHMENT A
PC MTG 5-28-14**

1. Noise Mitigation Measures: Installation of revolving front door adjacent to Valley Drive (and a non-revolving door for disabled access), laminated sound glass enclosure on the southeast corner of the Terrace located from floor-to-ceiling and sealing of “gaps”, acoustic absorbent panels on the ceiling and suspended acoustic panel “clouds” below the ceiling of the Terrace, and curtains surrounding the Terrace in the areas where there is not a glass enclosure.
 2. Full Food Service and Marketing: Throughout the entire Hotel, allow breakfast, lunch and dinner service open to the general public as well as hotel guests. Increase hours of operation in the Zinc Bar and Lobby, the Terrace, Courtyard and Skydeck for daytime and late night service daily; hours are currently limited to breakfast and evening appetizers with limited hours, and special events. Allow posting of menus in front of the Terrace, and advertising, marketing and promotion of the full food service as well as the Lobby component of the Hotel; outside menu posting is currently not permitted and marketing is limited to attracting Hotel guests and event planners.
 3. Special Events on the Terrace: Allow events to be scheduled during the daytime and late night; currently special events are not specified on the Terrace. Increase occupancy to 90 occupants, currently 47.
 4. Later Alcohol Service on the roof deck: Allow later service of alcohol on the roof deck (Skydeck); currently the roof deck can serve alcohol until 9:00 PM, food and non-alcoholic drinks until 10:00 PM with closing at 10:00 PM.
 5. Awnings, curtains and decorative lighting: Allow installation of decorative metal shade awnings on the south side of the Terrace extending over the walkway and partially over the Terrace, curtains floor to ceiling except shorter over the exit steps, and lights on support posts. Addition of a fiberglass canopy over the existing metal arches at the front entry off of Valley Drive.
- F. In response to comments from the Commission, staff and the public, the Applicant has modified the project as follows:
- a. The option for a front door vestibule in lieu of a revolving door
 - b. Full food service (breakfast, lunch and dinner) only on the entire Terrace and several tables in the Zinc Bar and Lobby, not throughout the entire hotel. Full food service in other areas only during special events and functions. Food service, primarily small-plates, to continue in the majority of the Zinc Bar and Lobby, the Skydeck and the conference room. The Courtyard would continue

to only be used for special events and functions. A full scale restaurant is not proposed; the primary use will continue to be a hotel.

- c. The Terrace occupancy will remain at 47 occupants, not increase to 90.
 - d. The proposed fiberglass canopy over the existing metal arches at the front entry off of Valley Drive may shall? not be installed.
 - e. Retain the existing non-acoustic curtains surrounding the Terrace and only replace if necessary to mitigate noise.
- G. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. An amendment to the Coastal Permit will not be required to be processed as there are no relevant coastal issues related to the subject application, as there is no intensification of use or increase in occupancy as the occupancy remains the same as originally approved by the City of Manhattan Beach Fire Department and posted on the site in 2005. The food and drink services and other services offered by the hotel will continue to be accessory to the primary hotel use, which currently is a first-class visitor serving full-service hotel use with food, drink and event services.
- H. An Environmental Impact Report (EIR) for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. The proposed Amendment, as revised, is within the scope of the EIR, and will not cause any significant environmental impacts or more severe environmental impacts that have not been analyzed in the EIR. In fact, as stated throughout these findings, the Amendment, as revised, has the potential to further reduce impacts related to noise. The EIR is the appropriate environmental document to analyze the proposed Amendment, as revised, insomuch as: (1) there are no substantial changes in the Project that will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) no substantial changes have occurred with respect to the circumstances under which the Project is undertaken that will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was adopted, showing that: (a) the

Project will have one or more significant effects not discussed in the previous EIR; (b) there are significant effects previously examined that will be substantially more severe than shown in the previous EIR; (c) there are mitigation measures or alternatives previously found not to be feasible that would in fact be feasible and would substantially reduce one or more significant effects of the project, but the City declines to adopt the mitigation measure or alternative; or (d) mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effect on the environment, but the City declines to adopt the mitigation measure or alternative. The EIR includes Mitigation Measures and a Mitigation Monitoring and Reporting Program in accordance with the requirements of CEQA. The EIR is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerk's office, located at 1400 Highland Avenue, Manhattan Beach, CA 90266, as well as on the City's website. The custodian of these records is Angela Soo, Community Development Department Executive Secretary.

- I. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the property to the north is zoned Public and Semipublic, and the property to the east is zoned Open Space, with Single Family Residential and High Density Residential to the east past Valley and Ardmore Drives.
- J. The General Plan designation for the property is Downtown Commercial.
- K. The primary use and purpose of Shade Hotel, is and will continue to be, to serve the community as a hotel offering first-class accommodations to visitors. The hotel may also offer special event, function, food, and other similar support services as secondary uses. Marketing and promotion of the hotel shall be consistent with these uses as provided in the conditions.
- L. Resolution No. PC 05-08 approved an Amendment to a Master Use Permit, to allow modifications to the previously approved alcohol sales and special events and describes the current approved business operations and project as follows: Breakfast Service in the Living Room, Porch, and/or Courtyard is proposed from 6:00 AM to 10:00 AM Monday-Friday and 6:00 AM-11:00 AM Saturday and Sunday. The "Wine Bar" is proposed to operate in the evenings from 5:00 PM to 11:00 PM daily, although flexibility for earlier hours based on the needs of the customer is desired. The Inn may provide wedding, party, and other special event services in their Courtyard, Meeting Room, and Living Room, as a secondary service to the primary Inn use. These types of events are limited to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday. The availability of the Inn for special events

shall not be marketed as the primary use. The Hotel may provide full liquor service throughout the Hotel, including self-service in room "mini-bars", and a portable bar for special events. The service of alcohol at the Hotel shall be in conjunction with food. The hours of food service, and the associated alcohol service, shall be consistent with the project description, which is generally breakfast, evening appetizers and for special events. The Wine Bar shall limit its food menu to appetizers or "small plates" (or "tapas"), to qualify as a "bonafide eating place" as required by the ABC Type 47 license. The Wine Bar shall provide food service but shall not operate as a full scale "restaurant". Breakfast may be served daily in the Living Room, Porch, and/or Courtyard. Shade Hotel shall not post any drink or food menus, or any drink or food signage outside of the hotel. The Sun Deck shall stop regular alcohol service no later than 9:00 p.m. daily. Alcohol service at events and functions shall stop thirty minutes prior to the hotel closing hours: 10:30 p.m., Sunday – Thursday; 11:30 p.m., Friday and Saturday.. The following room/area names have changed- the "Living Room or Wine Bar" is now the Zinc bar and Lobby, the "Porch" is now the Terrace, the "Meeting Room" is now the "Conference (Green) Room" and the "Sun Deck " is now the Skydeck.

- M. Four independent acoustics analyses were conducted by Don Behrens & Associates, two under the direction of the Community Development Department. The first reports, dated September 30 and October 7, 2013, are continuous Sound Monitoring Reports from three residential locations across the street from Shade Hotel to the east on Valley Drive. The reports continuously recorded the noise received by these properties from Friday September 20 through Friday October 4, 2013. The reports indicate that the average hourly sound levels in the area range between a low of about 35 to 47 dBA, and a high between about 51 to 69 dBA. The highest levels of noise occur during the daytime, typically 9:00 AM to 7:00 PM, and the lowest levels of noise typically occur between 2:00 AM and 4:00 AM. The Shade Hotel is not shown to significantly alter the noise levels in the area. The noise from the Shade Hotel does not exceed the objective noise standards in the Manhattan Beach Municipal Code (MBMC); the subjective standard was not evaluated in the reports. The actual noise measurements and continuous noise monitoring was conducted during several large events on the Skydeck, in the Courtyard, and in the Lobby.
- N. A report dated February 4, 2014 was submitted by the Applicant to evaluate certain noise mitigation measures, based on the proposed architectural plans, dated December 10, 2013. The report provides an assessment and recommendations for the Applicant's proposed noise mitigation measures and indicates a noise reduction of up to 6 dBA at the residences, with the south side Terrace noise mitigation being most effective. Three-dimensional modeling of noise to assess various mitigation measures was also constructed.

- O. The Applicant also requested an analysis of the data from the continuous sound monitoring reports prepared for the City in September/October 2013, to determine the source of single-event noise increases above the average sound levels. The twelve instances analyzed show noise levels ranging from 68.2 to 99.5 dB. None of these single-event noise events were attributable to the Shade Hotel but instead were attributable to vehicles, mainly emergency vehicles, and airplanes. The Fire and Police station is directly to the north of the Shade Hotel across 13th street and emergency vehicles exit and enter from that location, sometimes onto Valley Drive.
- P. After the February 12, 2014 Planning Commission meeting, City staff contracted with the noise consultant to evaluate additional possible noise mitigation measures for the hotel. The consultant's report dated April 16, 2014 indicates that the only really effective and clearly significant noise mitigation improvements would be the combination of a door on the Terrace entrance and new upgraded sound curtains, which would achieve a minimum decrease of 5 dBA, which is considered to be clearly noticeable. Three-dimensional modeling of noise to assess various mitigation measures was also constructed. Mitigation is incorporated into the conditions based on all of these evaluations and recommendations, public hearing comments and Planning Commission discussion and direction.
- Q. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- R. Based upon State law and MBMC Section 10.84.060, relating to the Amendment to the Master Use Permit application for the proposed project, the following findings are hereby made:
1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located since the proposed amendments to the use permit for Shade Hotel are consistent with the Commercial Downtown designation. This area is specifically designated for commercial activity and services for residents and out-of-town visitors. Several other business operations in the area already engage in similar uses. The project provides a full range of services needed by residents of, and visitors to, the City and region. The project will strengthen the City's economic base. The project protects surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts through the conditions of approval, which require physical noise mitigation and operational revisions.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since the proposed amended use permit is consistent with the General Plan for the Commercial Downtown designation because it is granting additional privileges to already approved uses that will result in minimal fundamental changes of those uses. Amending the use permit will have no environmental impact and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the location of the hotel facility. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the city, due to the conditions placed on the amended Use Permit and the additional mitigation measures related to noise that will be implemented. Additionally, the project is consistent with the following General Plan Goals and Policies:

GOALS AND POLICIES: LAND USE

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

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

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

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

Policy LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

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

Policy LU-7.1: Encourage the upgrading and growth of businesses in the Downtown area to serve as a center for the community and to meet the needs of local residents and visitors.

GOALS AND POLICIES: NOISE

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

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

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

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

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located because, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the implementation of the new modifications. The proposed amended use permit is consistent with the already approved primary and secondary uses of the facility. The primary use and purpose of Shade Hotel is and will continue to be to serve the community as a hotel offering first-class accommodations to visitors, with accessory food, drink and event services.
4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the project will all be complied with. Conditions to conform to applicable Code standards will apply. Because the proposed amended use permit will not alter the fundamental use, purpose or character of the hotel facility, and because there will not be any change in occupancy or intensification of the property, the proposed amended use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities. Additionally the conditions of approval require installation of noise mitigation on the Terrace and front door, limitations on hours of operation, special events, sales and service of alcohol, food and drinks, entertainment, amplified sound, security, marketing, closing of doors and

windows, limitations on valet, taxis, queue, staff parking, buses, and drop off.

- S. This Resolution, upon its effectiveness, constitutes the Amendment to the Master Use Permit for the subject property. This Resolution supersedes Resolution No. PC 05-08. It also amends Condition Nos. 28 and 38 of Resolution No. 5770, all other conditions in that Resolution (unless amended by other separate Resolutions for other Metlox tenants) remain effective and in full force.

SECTION 2. The Planning Commission hereby APPROVES the subject Master Use Permit Amendment, including new Noise Mitigation Measures, modifications to Food Service, marketing, Special Events on the Terrace, and alcohol service modifications, and awnings, curtains and lighting as shown in the concept plan dated February 4, 2014, subject to the following conditions:

Entertainment and Noise

1. General. The Director of Community Development shall not reduce restrictions or conditions as set forth in this Amendment, without approval by the Planning Commission, with notice to property owners within a 500 foot radius with standard notice procedures.
2. Noise Mitigation and other improvements. The following noise mitigation measures, as shown on the approved concept plans dated February 4, 2014, are required to be installed:
 - A) Revolving front door or a vestibule adjacent to Valley Drive with a secondary non-revolving door for disabled and oversized luggage access, if required.
 - B) Laminated acoustic glass enclosure at the front reception desk on the open display feature wall facing the new accessible door described in "A", off of Valley Drive.
 - C) A laminated sound glass enclosure on the southeast corner of the Terrace located from floor-to-ceiling.
 - D) Acoustic sealing of all existing openings and gaps in the glass enclosure on the southeast corner of the Terrace.
 - E) Acoustic absorbent panels on the ceiling and suspended acoustic panel "clouds" below the ceiling of the Terrace.
 - F) Acoustic curtains surrounding the Terrace on all sides in the areas where there is not a floor-to-ceiling glass enclosure, except the curtain above the access steps on the south side of the Terrace, which shall be a minimum of 7 feet 6 inches above the finished floor of the Terrace. Curtains are not required on the west side of the Terrace.
3. Public Areas-Venue (definition). Any area or space open to the public where sales, service and consumption of alcoholic beverages is permitted.

4. Special events and functions (definition).

- A) Special Events are private events in which an unaffiliated third party under contract has exclusive use of one or more venues or a portion of a venue. Attendees at special events shall have an invitation from the host client, with the exception of non-profit or charity types of events such as the Downtown Open House, Charity Education Wine Events, and Chamber events.
- B) Functions are generally “themed” public events held periodically for the general public, up to twelve (12) per year, such at, Halloween, New Years, Valentines, St Patrick’s Day, Manhattan Beach Open, Surf Festival, Mothers Day, Fathers Day and Six-Man.
- C) Special Events and functions with over 100 people require pre-approval from the Community Development Department through the annual Entertainment Permit.

5. Special Events and functions and required noise mitigation improvements- All noise mitigation improvements as detailed in Conditions No. 2, 7-9, 15, and 24-31 must be completed to the satisfaction of the Community Development Director within 5 months of the final approval of this Amendment. No special events or functions after 10:00 PM with more than 100 people may take place during this 5 month period unless they have been booked prior to the approval of this Amendment. After this 5 month period no special events shall be conducted after 10:00 PM with more than 100 people, until all of the required noise mitigation improvements are completed to the satisfaction of the Community Development Director.

6. Entertainment and amplified sound- Non-amplified music and sound is permitted in all public areas/venues described in Condition No. 6 subject to meeting the MBMC Noise regulations, with the exception that none is permitted on the Terrace. All amplified music and sound, including live entertainment and live music, shall use the house system only and shall be limited to background music, including background music with DJ’s, with the following exceptions.;

- A) Courtyard-Microphones are allowed only prior to 10 PM and shall use the house system only;
- B) Terrace- Background music through house system only is allowed. No DJ’s, microphones, live entertainment, live music, amplified (other than background music through house system) or non-amplified sound.
- C) Skydeck- Microphones are allowed and shall use the house system only. No amplified live entertainment or amplified live music is permitted.
- D) Zinc bar and Lobby-Amplified sound for DJ’s, live entertainment or live music, other than background music is permitted, provided all doors and windows leading to the outside, including those adjacent to the Courtyard, shall remain closed at all times, except when patrons and staff are entering and exiting.

7. House system for amplified sound- The house system shall be reviewed and approved by the Director of Community Development.
8. Terrace enclosure- A laminated sound glass enclosure on the southeast corner of the Terrace located from floor-to-ceiling, acoustic sealing of all existing opening in the glass enclosure on the southeast corner, acoustic absorbent panels on the ceiling and suspended acoustic panel "clouds" below the ceiling of the Terrace shall be installed.

The existing curtains shall be replaced within 3 years with acoustic curtains that shall surround the Terrace on all sides in the areas where there is not a floor-to-ceiling glass enclosure, except the access steps on the south side shall have curtains that are a minimum of 7 feet 6 inches above the finished floor of the Terrace to allow required emergency access. Additionally, curtains shall not be required on the west side of the Terrace, but if they are installed, they shall not be higher than 12 feet above the finished floor of the Terrace floor so that the top portion is always open to provide ventilation to meet Fire Department and Building Safety requirements.

The curtains shall remain open in the daytime and closed at nighttime, starting at 9:00 PM at the latest and then open again at 11:30 PM. Curtains may also be closed at anytime during inclement weather; such as cold or rain.

Existing heaters or other patio features shall be modified as required to meet Fire and Building Safety requirements. No temporary heaters, umbrellas, covers or other features that violate Fire and Building Safety requirements shall be placed on the Terrace.

9. Front (East) Main Entryway- The existing primary front entrance/exit doors shall be replaced either with a revolving door or with a vestibule, and a single secondary door shall be installed to the side of the revolving door if required to meet the accessibility requirements of the most current California Building Code. The accessible door, if required to be installed, shall remain closed and locked/unopenable from the outside at all times between 10:00 PM and 6:00 AM, with the exceptions below. Hotel staff shall be available at all times to open the door from the inside to allow access from the outside at any time for disabled persons and persons with luggage that cannot be accommodated through the revolving door. Laminated acoustic glass shall be installed at the front reception desk on the side facing the new accessible door.

If a double-door vestibule is installed instead of the revolving door, the vestibule shall include an automatic mechanism that does not allow more than one set of doors to be open at a time between 10:00 PM and 6:00 AM. Between 6 AM and 10 PM, both sets of doors will remain closed and the automatic mechanism shall be operational. This is to mitigate noise from escaping out of the front door to the east.

The doors shall meet all Building Safety, Fire and other City requirements, including but not limited to emergency egress and accessibility requirements.

10. Courtyard- Only special events and functions may use the courtyard. No general public gatherings permitted in the courtyard, and no “spillover” from the Zinc bar and lobby or other public areas.
11. Zinc bar and Lobby interior separation wall- A separation wall or retractable partition as detailed in Finding “O.” of Resolution No. PC 05-08 is not required to be installed.
12. Sound audibility- The volume of music, entertainment, group singing or group voices, whether or not amplified, may not be audible outside of the hotel facilities to the following extent. For any length of time, the noise may not dominate the background ambient noise, nor disturb surrounding residents, as defined in the MBMC “reasonable person” noise regulations, as well as the annual Entertainment Permit.
13. Entertainment Permit- Each year, the hotel shall apply for an annual entertainment permit on or before March 1, in accordance with Condition 40 in Resolution 5770, Metlox Master Use Permit. Special events and functions with more than 100 people require an Entertainment Permit.
14. Resident notification- The hotel shall e-mail to adjacent neighbors who sign-up, the schedule of special events and functions sent to the City, excluding client information.
15. Balconies- A permanent notice shall be placed on or near the doors to the hotel room balconies informing guests to be respectful of the neighbors at all times and to make no noise on the balconies or outside after 10:00 PM.
16. Exterior Doors- All exterior doors and windows to the public areas of the hotel facility shall be closed after 10:00 PM.
17. Noise Compliance Verification- The privileges within this Use Permit shall only be granted after the installation of the mitigation measures, implementation of the improvements, and modifications to the operations of the facility. After completion of these requirements, the Community Development Director, in cooperation with the Noise consultant, shall determine if the measures are effective and meeting the objective noise criteria and mitigation standards described in the previously submitted Noise reports.

18. Closed-definition.

A) In all outdoor public areas, including but not limited to the Terrace, Courtyard, and Skydeck, no sales, service or consumption of alcohol or any drinks or food. Music off, and lights turned up or turned off. All areas vacated, except for staff.

B) In all indoor areas, including but not limited to, the Zinc bar and Lobby, the Courtyard and the Conference Room, no sales, service or consumption of alcohol, or any drinks or food. Background music only through the house system permitted, no DJ's or live entertainment or live music. All doors and windows, including the folding doors/wall on the east side of the Lobby that opens onto the Courtyard, shall remain closed.

19. Hours of operation – See condition #18 for definition of closed and further regulations for when venues are closed. See condition No. 32 for food service regulations. Although the hotel is a 24-hour operation and is the primary use on the site, there are limits to the hours of operation on the secondary uses of the site for food, drink and alcohol service, events, and other activities, as addressed below and in other conditions.

<u>Public Area/Venue</u>	<u>Day-to-day Hours of Operation- Opening and Closing times</u>	<u>Special Events and Functions Hours of Operation- Opening and Closing times</u>
	<u>(See Closed regulations in Condition #18); No sales, service or consumption of Alcohol, food or drinks after Closing Time</u>	
Zinc bar and Lobby	6 AM to 12 AM (midnight)	6 AM to 12 AM (midnight) Sunday-Thursday
Terrace/Porch- south side of Lobby outdoor	6 AM to 10:30 PM	6 AM to 10:30 PM
Conference Room (Green)	6 AM to 12 AM (midnight)	6 AM to 12 AM (midnight)
Courtyard- Special events and functions only allowed- outdoor	Not permitted except as pass-through area	6 AM to 11 PM Sunday-Thursday 6 AM to 12 AM (midnight) Friday-Saturday
Skydeck-outdoor	8 AM to 10:30 PM	8 AM to 10:30 PM

a) Outdoor public areas/venues- All sales and service of alcohol, food, and drinks shall stop 60 minutes prior to closing time (closed).

b) Indoor public areas/venues- All sales and service and consumption of alcohol, food, and drinks shall stop at closing time (closed) and everyone except

staff shall vacate the area. Consumption of alcohol, food and drinks is allowed up until closing time.

c) Room service for alcohol is subject to ABC regulations of 6:00 AM to 2:00 AM. Room service for food is permitted 24/7.

d) Only staff may occupy outdoor and indoor public areas after closing.

e) New Years Eve- Closing hours for all venues as regulated by the MBMC. Currently may request 1:00 AM closing time through a Temporary Use Permit, except the Skydeck which shall close at the time specified above which is 10:30 PM.

General Conditions

20. Substantial Compliance- The proposed changes shall be in substantial conformance with the plans submitted, and the project description as approved by the Planning Commission, subject to any special conditions set forth in this amendment. The design, specifications and layout of sound mitigation measures is subject to further review and approval by the Director of Community Development, and the Planning Commission as determined to be necessary by the Director of Community Development. Any substantial deviation from the approved plans, or project description, shall require review by the Director of Community Development, who shall determine if Planning Commission review and a further amendment to the Master Use Permit or other approvals are required.

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

- Skydeck – 92
- Zinc Bar and Lobby – 159
- Terrace/Porch-south side of Lobby- 47
- Courtyard – 151
- Conference (Green) Room - 44

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

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

24. Security. The Hotel shall provide a 3rd party security staff person for all Special Events and Functions with over 50 persons, and any Special Event or Function that has amplified sound, live entertainment or live music after 10:00 PM, and for any Special Event or Function on the Skydeck that ends at 10:00 PM or later and has 50 or more people. The Security staff shall supervise the site and surrounding area to ensure that all conditions of approval, including but not limited to noise, sales and service of alcohol, access, windows and doors being closed, littering, and any other nuisances are complied with. The Security staff shall work cooperatively, and meet periodically with the Police Department, if requested.

Ingress-Egress Control

25. Valet- After 10:00 PM daily, customers using the Shade valet service shall wait inside of the lobby, not outside, until the valet arrives with their vehicle. The hours and days may be modified to be more, but not less, restrictive as determined to be necessary by the Director of Community Development. The valet shall keep all driving lanes, parking back up areas, and all vehicular and pedestrian accessways free and accessible to the general public, subject to approval of the Director of Community Development.

26. Taxis- Hotel employees shall discourage the public from using taxis on Valley Drive after 10 PM. Taxi pickups and drop-offs for the general public at the Shade entrance shall be prohibited after 10 PM. Everyone, except for registered hotel guests and disabled persons, shall be directed to the taxi stand on Morningside Drive and 13th Street, after 9 PM. Hotel staff may call for a taxi to pickup registered guests and disabled persons at the hotel entrance on Valley Drive at any time.

27. Entry-Exit Queue- After 10:00 PM, no queue or line or gathering of people waiting to enter or exit the Shade shall be located outside of the building except the queue may be located on the Terrace, or customers may be directed to the Metlox Town Square area near the outdoor fireplace and fountain and be provided with “beepers” or electronic notification devices.

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

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

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

31. Front Drop Off- Vehicles occupying the drop off/driveway area in front of the hotel off Valley Drive shall not park on the curb or sidewalk or past the end of the south landscaped "island". Any temporary barricade across the driveway shall not block access to 12th Walk at the bollards. The area at Valley and 12th Walk by the bollards shall remain open, unobstructed and free of vehicles at all times, to allow for emergency vehicle access at the bollards, and vehicle access into the parking structure.

Food service

32. Food Service- The hotel may provide full food service (breakfast, lunch and dinner) on the entire Terrace. The Zinc Bar and Lobby may have several seats of "spill-over" from the Terrace with full food service. Full food service may be provided in all other public areas only during Special Events and Functions. Food service, primarily small-plates, may be provided in the Zinc Bar and Lobby at any time, and on the Skydeck only during the hours of operation. This shall not preclude 24-hour room service for food and non-alcoholic drinks, and room service of alcohol in compliance with ABC regulations. A full scale restaurant will not be provided; the primary use on the site will continue to be a hotel.

Marketing

33. Marketing-General- Any marketing and promotion of the facility will be first and foremost as a hotel use. The availability of the hotel for Special Events and Functions, as well as food and the bar service, may be marketed as secondary uses, but not as the primary use. The hotel shall not advertise, market or promote drink or "happy hour" types of specials.

34. Menu Posting- The hotel may post drink or food menus or signage outside of the hotel, except that the hotel may not post information about any drink or "happy hour" types of specials. Any menu posted on the south side of the Terrace shall be adjacent to the outside of the Terrace and not extend past the existing planters on the south side.

Procedural

35. Review and Violations. All provisions of the Master Use Permit Amendment shall be reviewed by the Community Development Department within 6 months after completion of improvements and yearly thereafter. The Planning Commission may hold a public hearing within one year after the adoption of this Resolution to review the status of the implementation of the Resolution, conformance with the conditions of approval, and any related information as the Director of Community Development deems appropriate. At any time, the City may schedule a public hearing to consider revocation or modification of the Amended Master Use Permit as it relates to the Shade Hotel. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses. If the Applicant fails to meet the conditions within this Resolution, the City will schedule a revocation or modification hearing.

36. Expiration. Unless appealed to the City Council, the subject Use Permit Amendment and Coastal Development Permit shall become effective after expiration of the time limits established by the MBMC and Local Coastal Program.

37. Fish and Game. Pursuant to Public Resources Code Section 21089 (b) and Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the required filing fees are paid.

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

39. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the Applicant to bind all future owners and possessors of the subject property to the terms and conditions. This permit and rights conferred in this approval shall not be effective until the property owner signs and returns an affidavit accepting the conditions of approval. The property owner shall file this affidavit with the Community Development Department within 30 days of the final approval and prior to issuance of any development or building permits pursuant to this approval. The format of the covenant shall be reviewed and approved by the City Attorney.

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

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

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

43. Legal. Applicant shall defend, indemnify, and hold the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") free and harmless from and against any and all claims (including, without limitation, claims for bodily injury, death, or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including, without limitation, attorneys' fees, consequential damages, disbursements, and court costs) of every kind and nature whatsoever (individually, a "Claim," collectively, "Claims"), in any manner arising out of or incident to: (i) this approval and related entitlements, (ii) the City's environmental review of this project, (iii) any construction related to this approval, or (iv) the use of the property that is the subject of this approval. Applicant shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding arising out of or incident to this approval, any construction related to this approval, or the use of the property that is the subject of this approval. The City shall have the right to select counsel of its choice. Applicant shall reimburse the City, and the other Indemnitees, for any and all reasonable legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Applicant or Indemnitees. This indemnity shall apply to all Claims and liability regardless of whether any insurance policies are applicable. Nothing in this Section shall be construed to require Applicant to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the permit, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of May 28, 2014 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Richard Thompson,
Secretary to the Planning Commission

Rosemary Lackow,
Recording Secretary

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**CITY OF MANHATTAN BEACH
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.

Chairperson 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. He then discussed the options studied in the April 16, 2014 report. The canopy and the living wall are not useful, and the revolving door alone is estimated to have a 5dB reduction. The best case for Shade noise levels 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 exiting 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

Angela Soo

Subject: FW: Shade Hotel Occupancy Increase Requires Coastal Permit Amendment
Attachments: 140418-OccupancyIncreases-Chronology-Final.pdf

From: Don McPherson [<mailto:dmcphersonla@gmail.com>]

Sent: Monday, April 28, 2014 1:50 PM

To: Christopher Conaway; Kathleen Paralusz; Martha Andreani; Paul Gross; Steve Ortmann

Cc: John Jalili; David Biggs; Quinn Barrow; Diana Varat; Richard Thompson; Laurie B. Jester; Sal Kaddorah; Nate Hubbard; Wayne Partridge

Subject: Shade Hotel Occupancy Increase Requires Coastal Permit Amendment

Planning Commission
City of Manhattan Beach
Via Email

Subject: Increased Occupancy/Intensification by 2014 CUP Requires Amendment to Metlox Coastal Permit

Chairman Gross and Commissioners,

This paper constitutes one in a series, to prepare for the continued public hearing on May 28 for Shade Hotel.

The new 2014 CUP will grant valuable new entitlements to Shade Hotel, resulting in corresponding intensification, compared to that permitted by the 2005 CUP. To determine the noise mitigation required for neutralizing that intensification, the planning commission must establish the entitlement baseline inherent in the 2005 CUP. Occupancy in the alcohol-serving venues constitutes one parameter in that baseline.

Shade has operated and continues to operate far above the intensity permitted by the 2005 CUP baseline, actually at levels now considered for the 2014 CUP. As result, the tendency exists to attribute 2014 CUP entitlements to the 2005 CUP.

Occupancy provides a case in point. At the April 23 hearing, staff testified that the 2014 CUP will not increase occupancy. According to the record, however, the new use permit will boost occupancy in alcohol-serving venues by 154 patrons, a 31% increase.

Staff points to the entertainment permits as proof that no occupancy increase will occur. In contrast, the record shows that the two entertainment permits in 2008 raised the occupancy by 154 patrons. This increase does not constitute an entitlement, because the entertainment permit, ministerially-approved, cannot reduce restrictions set forth in the 2005 CUP.

The attachment provides the facts regarding occupancies approved for the 2005 CUP and the subsequent increases included in the entertainment permits. In brief, the Fire Department originally established occupancies for the 2004 building permit. Nearly a year later, the planning commission adopted those occupancies into the 2005 CUP, by reference pursuant to Condition 1. In the 2008 entertainment permits, however, staff over doubled the occupancies for the Zinc Lounge/Lobby, the terrace and the rooftop Skydeck.

The increase in occupancy and its resulting use intensification has an additional impact on the current proceedings to approve the 2014 CUP. According to the city Local Coastal Program, an increase in intensity requires an amendment to the Metlox coastal permit. Staff has chosen not to process the required coastal permit amendment.

Thanks,

Don McPherson
1014 1st St, Manhattan Beach CA 90266
Cell: 310 487 0383
dmcpherosnla@gmail.com

ATTACHMENT C
PC MTG 5-28-14

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ENTERTAINMENT PERMITS IMPROPERLY INCREASED OCCUPANCY BY 154

SUMMARY OF OCCUPANCY INCREASES FOR SHADE HOTEL.

In 2004, the Fire Department originally determined occupancies for Shade Hotel, by establishing them in the building permit, approved 19 August 2004. During 2008, staff over doubled the occupancies of the Zinc Lounge, the terrace and the rooftop Skydeck, by means of the entertainment permit. This improperly increased occupancy in alcohol-service venues by 154 patrons. The entertainment permit cannot reduce restrictions imposed by the use permit.

The occupancy increase constitutes intensification. The city Local Coastal Program requires an amendment to the Metlox coastal permit for any change in intensification.

Table 1 below itemizes the 154-occupancy increase for alcohol-serving venues.

Venue	2005 CUP Occupancies	Entertainment Permit Occupancies, 2008	Occupancy Increase
Zinc Lounge-Lobby	77	159	82
Courtyard	151	151	0
Terrace	22	47	25
2 nd Fl Meeting Room	44	44	0
Skydeck	45	92	47
Total Increase			154

Staff states the Fire Department [FD] first determined occupancies in 2006. In May 2005, however, the planning commission could not have approved those occupancies for the 2005 CUP. Instead, according to the record, the commission approved occupancies determined in 2004 by the FD for the hotel building permit, nearly a year before the 2005-CUP hearing in May 2005. Table 1 lists the occupancies approved for the 2005 CUP, as stated in the 2004 building permit and in Mr. Zislis’s testimony to the planning commission on 25 May 2005.

To determine occupancies, the Fire Department applies building-code standards in terms of square-feet per person, as follows: a) 15 sq-ft for chairs and tables; b) 7 sq-ft for chairs only; and, c) 5 sq-ft for standing.¹ For example, in Table 1, the courtyard occupancy of 151 corresponds to a dining configuration with tables and chairs. For an intensified use, such as a standing-only cocktail party, the courtyard would have occupancy of 453. Please recall that the current Shade application proposed an occupancy increase to 90 on the terrace, which would have intensified its use, by applying the 7 sq-ft per person standard, rather than 15 sq-ft.

Staff claims that the planning commission approved for the 2005 CUP, the upwardly revised occupancies determined by the FD in 2006, one year later. The record shows the 2005 planning commission approved occupancies established by the FD in the 2004 building permit.

EVIDENCE FOR OCCUPANCY CHANGES.

Exhibit 1 provides the chronology of occupancy increases for Shade Hotel, from the 2002 Metlox Master Use Permit to present. The Metlox CUP contains no occupancy data, because only a concept existed at that time, namely a boutique B&B. [Exhibit 1, Item 1]

¹ 2013 California Building Code, Title 24, Chapter 10, Means of Egress, Table 1004.1.2

ENTERTAINMENT PERMITS IMPROPERLY INCREASED OCCUPANCY BY 154

During 2004, the Fire Department established occupancies for the hotel building permit, approved in August 2004. [Item 2] At the May 25 hearing for the 2005 CUP, according to the video, the planning commission did not modify the building-permit occupancies.

In plans on file with the city, Pages 24 and 25 in the 2004 building-permit require 'Maximum Occupancy' signs for 77 in the Zinc Lounge-lobby and for 44 in the 2nd floor meeting room. Exhibit F in the staff report for the 2005-CUP hearing included these building-permit plans. [Item 5]

The descriptions on Pages 5 and 115 in the 2004 building permit state the occupancy of the rooftop Skydeck as 45 persons.

The design in the building permit also established the occupancy for the courtyard. Condition 28 in the Metlox CUP permits the courtyard to have special events, with a maximum occupancy determined by the Fire Department. The courtyard area divided by 15 sq-ft per person equals approximately 151 patrons, corresponding to dining with chairs and tables.

At the 2005 hearing, Ms. Jester testified the terrace would not serve alcohol or food. [Item 7] Mr. Zislis testified the terrace would serve breakfast only, with occupancy of 22. [Item 8] No other records exist regarding terrace occupancy, until the first 2008 entertainment permit, which increased terrace occupancy to 47. [Item 11] Condition 28 in the Metlox CUP excludes special events on the terrace, so Shade cannot operate it at maximum occupancy.

The second entertainment permit for 2008 increased occupancy of the Zinc Lounge-lobby to 159, from 77, and the occupancy of the rooftop Skydeck to 92, from 45. [Item 12] Condition 28 in the Metlox CUP excludes special events on the Skydeck, so Shade cannot operate it at maximum occupancy.

Staff knows that the 2004 building permit specified occupancies less than their occupancies in the entertainment permits during 2008-2014. Exhibit 2 provides first-page excerpts from the two entertainment permits issued in 2008. The first, approved 2 Sep 2008, shows occupancies for the Zinc Lounge and Skydeck corresponding to the values in Table 1 for the building permit, 77 and 45 patrons, respectively. The second, approved 19 Dec 2008, over doubles the Zinc Lounge and Skydeck occupancies, to 159 from 77 and 92 from 45 patrons, respectively.

CONCLUSIONS.

Table 1 above compares the 2005-CUP occupancies listed in Exhibit 1, Item 9, with the entertainment-permit occupancies in Exhibit 1, Items 12 and 13, to obtain a total occupancy increase of 154 in alcohol-serving venues. This increase translates directly into intensification.

Staff improperly used the entertainment permit to increase the occupancies. The increases do not constitute entitlements, because an entertainment permit cannot reduce use-permit restrictions.

The city Local Coastal Program requires a modification to the Metlox coastal permit for any ***change*** in intensification, either increase or decrease. As a rule of thumb, a 10% or more change triggers a coastal-permit action. The 154-patron change in occupancy for alcohol-serving areas constitutes a 31% increase from the 2005-CUP occupancy for those venues.

EXHIBIT 1. CHRONOLOGY OF OCCUPANCY INCREASES FOR SHADE HOTEL

2008 ENTERTAINMENT PERMITS INCREASED OCCUPANCY IN ACOHOL-SERVING VENUES BY 154 PATRONS

See next page for superscripted notes.

Item	Date	Public Record	Comments	Occupancies ¹ (Heading descriptions, next page)				
				Zinc/ Lobby	Court- Yard	Terrace	Conf. Room	Sky Deck
1	16Jul02	Metlox master CUP	No occupancy or terrace information					
2	19Aug04	Building permit plans, on file with city, copies not permitted	<ul style="list-style-type: none"> ●Pages 5, 24, 25, 26 & 115 ●1st floor occupancy: 204² ●Zinc-lobby wall not included 	77 ²	151 ³		44 ²	45 ²
3	No Date	2005 CUP application	<ul style="list-style-type: none"> ●States no occupancy increase ●1st floor occupancy: 204² ●Includes Zinc-lobby sound wall ●Terrace/porch not mentioned 					45 ²
4	25May05	2005 staff report	<ul style="list-style-type: none"> ●States no occupancy increase ●1st floor occupancy: 204² ●Includes Zinc-lobby sound wall ●Terrace/Porch not mentioned 					
5	25May05	Exhibit F plans	Same as building plans, Item 2 ²	77 ²			44 ²	
6	25May05	Draft 2005 CUP	<ul style="list-style-type: none"> ●Finding S(4): no occupancy increase ●Includes Zinc-lobby sound wall ●Terrace/Porch not mentioned 	77 ²	151 ³		44 ²	45 ²
7	25May05	Ms. Jester testimony	No alcohol-food service on terrace ⁴			0 ⁴		
8	25May05	Mr. Zislis testimony	Terrace breakfast only, 22 occupants ⁵			22 ⁵		
9	25May05	Approved 2005 CUP	Condition 1 requires compliance with plans and project description ⁶	77 ²	151 ³	22 ⁵	44 ²	45 ²
10	2006-07	Entertain. Permits ⁷	No occupancies stated					
11	2008	1 st Entertain. Permit ⁷	Public areas only; no guests in rooms	77 ²	200⁸	47⁹		45 ²
12	2008	2 nd Entertain. Permit ⁷	Ditto above	159¹⁰	151 ³	47⁹	44 ²	92¹⁰
13	2009-14	Entertain. Permits ⁷	Ditto above	159¹⁰	151 ³	47⁹	44 ²	92¹⁰

NOTE: Bold, italicized entries in red exceed 2005-CUP limits. These occupancy increases do not constitute entitlements, because improperly increased by entertainment permit.

EXHIBIT 1. CHRONOLOGY OF OCCUPANCY INCREASES FOR SHADE HOTEL

2008 ENTERTAINMENT PERMITS INCREASED OCCUPANCY IN ACOHOL-SERVING VENUES BY 154 PATRONS

SUPERSCRIPTED NOTES IN PRECEEDING TABLE FOR OCCUPANCY INCREASES

Note	Item Nos.	Descriptions
1	Headers	<ul style="list-style-type: none"> ●Zinc/Lobby: Zinc expanded to include the hotel lobby, by second 2008 entertainment permit ●Court Yard: Courtyard in center of building, open at the top and surrounded by external walls ●Terrace: Open covered terrace, on south side of 1st floor ●Conf Room: Conference room on 2nd floor ●Sky Deck: Roof-top outdoor area with pool
2	2, 3, 4, 5, 9, 11, 12, 13	The 2004 building-permit occupancies for: The total building [334]; The 1 st floor [204]; The 2 nd floor [85]; and, The Sky Deck [45]. The occupancies include guests in rooms. Plans show 77 occupancy for the Zinc Lounge plus lobby and 44 for the 2 nd floor conference room, at Pages 24 and 25, respectively.
3	2, 6, 9, 12, 13	For special events, the Metlox CUP Condition 28 permits 151 occupancy in the courtyard, the maximum approved by Fire Department. Condition 28 excludes the terrace and Skydeck from special events.
4	7	At the 2005 CUP hearing, Ms. Jester testified the terrace would have no alcohol or food service
5	8	At the 2005 CUP hearing, Mr. Zislis testified the terrace seated 22 persons . This is the only reference to the terrace occupancy, before staff raised it to 47 in the first 2008 entertainment permit.
6	9	Condition 1 in 2005 CUP requires compliance with occupancies listed in: 1) The building permit [Item 2]; 2) The application and staff report [Items 3 & 4]; and, 3) The Exhibit F plans [Item 5]
7	10 thru 13	Entertainment permits, required annually. Cannot reduce restrictions set forth in the use permit.
8	11	Erroneous 200 occupancy for the courtyard , in the first 2008 entertainment permit; does not correspond to 15 sq-ft per occupant, for seated dining
9	11 thru 13	Terrace occupancy increased to 47 , from 22, by the first 2008 entertainment permit
10	12 & 13	Zinc Lounge and Sky Deck occupancies over doubled , from 77 to 159 and from 45 to 92, respectively, by the second 2008 entertainment permit

FIRST 2008 ENTERTAINMENT PERMIT SHOWS OCCUPANCIES FROM 2004 BUILDING PERMIT

GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.
Location: 1221 N Valley- Shade Hotel- Metlox **Approved 2 September 2008**

CONDITIONS OF APPROVAL

Police Department:

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

Fire Department:

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

- Roof Deck - 45 **Same as in 2004 building permit**
- Lobby Bar (Zinc Lounge)- 77 **Same as in 2004 building permit**
- Patio to south of Zinc Lounge- **47 Increased from 22, Mr Zislis testimony**
- Courtyard Area - 200 **Erroneous; does not correspond to 151 patrons, seated dining**

Community Development Department:

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

SECOND 2008 ENTERTAINMENT PERMIT DOUBLED ZINC AND SKYDECK OCCUPANCIES

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

Location: 1221 N Valley- Shade Hotel- Metlox **Approved 19 December 2008**

CONDITIONS OF APPROVAL

Police Department:

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

Fire Department:

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

Roof Deck - 92 **Increased from 45 in first 2008 entertainment permit**
Lobby Bar (Zinc Lounge) - 159 **Increased from 77 in first 2008 entertain. permit**
Patio to south of Zinc Lounge- 47 **Increased from 22, Mr Zislis testimony**
Courtyard Area - 151 **Corrected from 200 in first 2008 Entertainment permit**
Conference Room - 44 **Same as in 2004 building permit**

Community Development Department:

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

Angela Soo

Subject: FW: Demand for Submission of Shade Hotel 2005 Occupancy Data to Planning Commission

From: Don McPherson [<mailto:dmcphersonla@gmail.com>]

Sent: Monday, May 19, 2014 7:39 AM

To: Laurie B. Jester; Richard Thompson

Cc: Christopher Conaway; Kathleen Paralusz; Martha Andreani; Paul Gross; Steve Ortmann; Bruce Moe; Quinn Barrow; Diana Varat; Nate Hubbard; Wayne Partridge

Subject: Demand for Submission of Shade Hotel 2005 Occupancy Data to Planning Commission

Laurie Jester, Planning Manager
City of Manhattan Beach
Via Email

Subject: Demand for Public Record Inclusion, Shade 2004 Building Permit and Approved 2005 Plans

This email shall serve as a demand, that for the May 28 public hearing, the city staff submits to the planning commission the 2004 building plans for Shade Hotel and the Exhibit F plans approved at the May 25 public hearing for the 2005 CUP, Resolution No. PC 05-08.

These records specify maximum occupancies approved by the Fire Department and the Planning Commission during 2004-2005, having values much less than those listed in the proposed new resolution. Consequently, the increased occupancies in the new use permit will substantially intensify use.

Specifically, this demand requires staff to provide the planning commission the following records, in readable form.

From the 19 August 2004 Building Permit on File with the City

- Pages 5 and 115, which specify the following occupancies: 1) First floor, 204 persons; 2) Second floor, 85 persons; and, 3) Roof deck [SkyDeck], 45 persons
- Page 24, which depicts the first floor, specifying a sign in the Zinc Lounge for a maximum occupancy of 77 persons
- Page 25, which depicts the second floor, specifying a sign in the meeting room for a maximum occupancy of 44 persons
- Page 26, which depicts the roof deck [SkyDeck].

From the 25 May 2005 staff report for the 2005 CUP, Resolution No. PC 05-08

- The Exhibit F plans approved by the 2005 Planning Commission, corresponding exactly to the aforementioned Pages 24, 25, and 26 in the 2004 building permit for Shade Hotel, as well as the maximum-permitted occupancies approved therein.

From the Supplementary Handout for the aforementioned 25 May 2005 public hearing

- The plan for the acoustic wall between the Zinc Lounge and the hotel lobby, stated to exist by Director Thompson to Interim City Manager Jalili, at our meeting on 9 December 2013.

For the May 28 public hearing, if staff fails to provide the planning commission this evidence of occupancies approved for the 2005 CUP, that failure will constitute a violation the municipal code, section MBMC 10.104.030(D)(1). As result of violating this code section, the city will issue the new use permit "...on the basis of erroneous or misleading information or misrepresentation."

I also require that you attach this email to the staff report for the May 28 public hearing on Shade Hotel.

Don McPherson
1014 1st St, Manhattan Beach
Cell: 310 487 0383
dmcphersonla@gmail.com

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Angela Soo

From: Don McPherson <dmcphersonla@gmail.com>
Sent: Tuesday, May 20, 2014 2:32 PM
To: Christopher Conaway; Kathleen Paralusz; Martha Andreani; Paul Gross; Steve Ortmann
Cc: Bruce Moe; Quinn Barrow; Diana Varat; Richard Thompson; Laurie B. Jester; Nate Hubbard; Stephanie Hubbard; Wayne Partridge
Subject: Overview of Shade 2014 CUP Entitlements, 2005 CUP Requirements and Mitigation Measures
Attachments: 140520-2014CUP-Entitlements-Compiled.pdf

Planning Commission
City of Manhattan Beach
Via Email

Subject: Overview of 2014 CUP Entitlements, 2005 CUP Requirements and Mitigation Measures for Shade Hotel
Chairman Gross and Commissioners,

During the past five months, I have submitted to you a considerable amount of evidence and analyses, regarding modification of the use permit for Shade Hotel. The attachment summarizes all that information in two pages, supported by a few exhibits, necessary to update the material with information from the April 23 hearing.

With all due respect to the prerogatives of the Planning Commission, I take the liberty to suggest a three-step process, namely:

1. Start with the requirements in the current use permit, Resolution No. PC 05-08 ["2005 CUP"], as approved by the Planning Commission in May 2005;
2. Quantify the new entitlements granted by the proposed resolution ["2014 CUP"]; and,
3. Formulate effective physical and operational mitigation measures that will largely eliminate the disturbances that will result from the increased intensification of use.

Nobody can determine the absolute noise reduction in dB's, required to suppress levels of music and voice from Shade Hotel, so that the phenomenon of selective hearing does not disturb and annoy the neighbors. Consequently, to neutralize the intensification of use resulting from the new 2014 CUP, the commissioners have at their disposal, only the exercise of common sense, to require effective and practical measures for noise mitigation.

All parties have provided an information overload, in pursuit of our mutual objectives. I would like the opportunity to brief each of you for an hour, on my contributions to this welter of data. Employing a non-advocacy fact-based ground rule, I can efficiently page through the evidentiary records, if that would answer any questions the commissioners might have.

Thanks for listening to us residents, since January 22 of this year,

Don McPherson
1014 1st St, Manhattan Beach
Cell: 310 487 0383
dmcphersonla@gmail.com

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OVERVIEW OF 2014 CUP NEW ENTITLEMENTS AND REQUIRED MITIGATION

SUMMARY.

With utmost sincerity and profound respect for the prerogatives of the Planning Commission, I offer the following observations regarding your responsibilities, in the matter of modifying the use permit for Shade Hotel.

The Planning Commission should:

1. Understand the requirements in the 2005 CUP, as approved by the 2005 Planning Commission, notwithstanding the invalid lessening of restrictions made for operating hours and occupancies by the entertainment permits, from 2006 through 2014;
2. Quantify the new entitlements granted by the 2014 CUP, incremental to the 2005 CUP; and,
3. Formulate physical and operational mitigation measures that will largely eliminate the noise disturbances in the residential neighborhood, across the Valley-Ardmore parkway.

The table below presents an overview of 2005-CUP requirements and 2014-CUP entitlements, Items 1 and 2 above. I and other residents have provided documented evidence to substantiate the 2005-CUP requirements, so that data not included herein.

<u>2005-CUP REQUIREMENTS</u>	<u>2014-CUP ENTITLEMENTS (23 April 2014)</u>
50 dB acoustic wall assembly between the Zinc Lounge & lobby [Finding O; Condition 1; and, Entertainment Permits, 2006-2014]	Sound wall eliminated [Condition 11]
<ul style="list-style-type: none"> ●Zinc Lounge occupancy : 77 ●Skydeck occupancy: 45 ●Terrace occupancy: 22 [2004 building permit; Exhibit F plans in 25 May 2005 staff report; Finding S(4); and, Mr. Zislis 2005 application and testimony]	<ul style="list-style-type: none"> ●Zinc Lounge occupancy : 159 ●Skydeck occupancy: 92 ●Terrace occupancy: 47 ●154 total increases from the 2005 CUP [Condition 21]
Terrace close: 10 AM Monday-Friday; 11 AM Saturday-Sunday [Finding L, Condition 5]	Terrace close 11 PM daily [Condition 19]
Special events not permitted on the terrace or the SkyDeck [Condition 2 and Metlox CUP Condition 28]	Special events permitted on both the terrace and the SkyDeck [Condition 19]
Lunch service and full-scale restaurant prohibited [Finding L, Conditions 3 & 5]	Lunch service and full-scale restaurant permitted [Condition 32]
Advertising Zinc lounge and Skydeck as separate attractions prohibited [Cond. 4]	Advertising alcohol-serving venues as separate attractions permitted [Condition 33]
Menu posting outside hotel prohibited [Condition 6]	Menu posting outside hotel permitted [Condition 34]

OVERVIEW OF 2014 CUP NEW ENTITLEMENTS AND REQUIRED MITIGATION

EFFECTIVE AND PRACTICAL PHYSICAL NOISE MITIGATION MEASURES (ITEM 3 ABOVE).

On April 11, I proposed mitigation measures to the planning commission as follows:

◆ **Terrace:** 1) Full enclosure of lower tier; 2) Doors for south entrance; 3) Noise absorbers suspended from and on ceiling; 4) Acoustic curtains for all of east and south walls, except entrance; 5) 12ft high acoustic curtains on west side; and, 6) Sound-trap closure of the terrace south-wall horizontal gap at the ceiling.

◆ **Lobby:** 1) Vestibule; 2) Façade upgraded with acoustic glass; and, 3) Acoustic curtains

◆ **Courtyard:** 1) Acoustic curtains; and 2) Folding acoustic wall to isolate corridor

Exhibit 1 provides conceptual drawings of mitigation measures for the abovementioned venues. I have updated these drawings to include: 1) The maximum 12-foot height required by the Fire Department for acoustic curtains at the terrace west wall; and, 2) Closure by sound traps of the top horizontal gap in the terrace south wall, as discussed at the April 23 hearing.

Staff and the acoustic contractor, Behrens, have stated that the only effective way to mitigate terrace noise requires closure of the south entrance by doors. [Exhibit 2, Excerpts from the April 16 Behrens acoustic analysis and the April 23 staff report].

At the April 23 hearing, both Ms. Jester and acoustic analyst Mr. Corbishley testified that effective mitigation of terrace noise requires doors to close the south entrance. Mr. Behrens testified that it necessary to close gaps in the terrace south wall, for a 13 dB noise reduction.

Near the end of the meeting, however, Ms. Jester stated that the terrace south entrance must remain open. Commissioners can review this conflicting testimony. Click either YouTube at http://youtu.be/5jD3V_IW7f4 or DropBox at [23April2014-Shade-Video-TerraceEntrance](#).

CONFLICTING EVIDENCE FOR OCCUPANCIES APPROVED IN THE 2005 CUP.

As per the preceding table, occupancies in the Zinc Lounge, SkyDeck and the terrace have increased by 154 persons, a substantial intensification of use.

At the April 23 hearing, Mr. Zislis and Director Thompson testified that no changes have occurred in occupancies, since approval of the 2005 CUP on 25 May 2005.

On April 28, I submitted to the PC a detailed analysis of occupancies, based on many documents in the public record, dating back to approval of the building permit on 19 August 2004, nine months before approval of the 2005 CUP. [Exhibit 3]

The Planning Commission must reconcile these conflicting evidentiary records for occupancies permitted by the 2005 CUP.

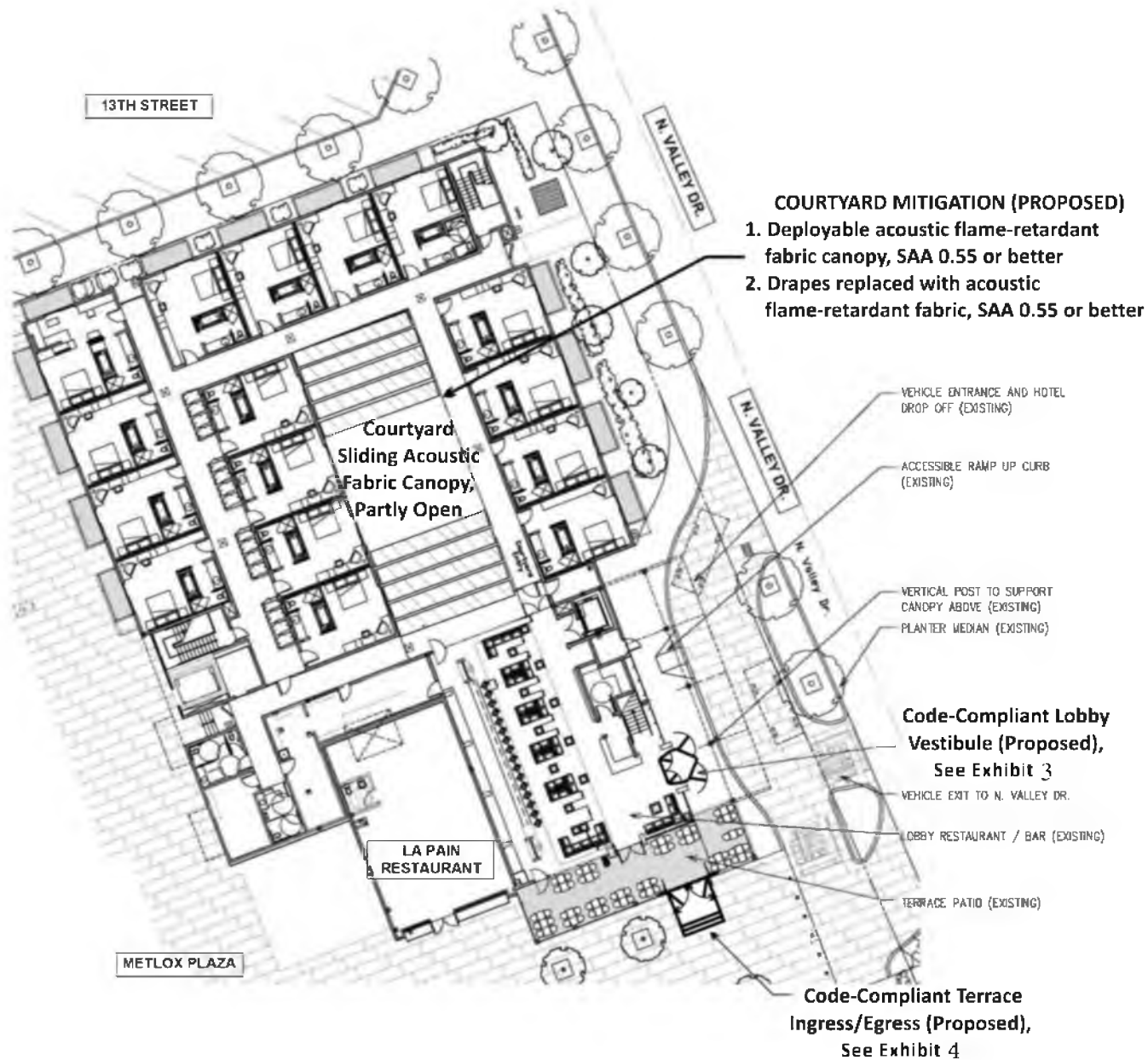
CONCLUSIONS.

The planning commission should establish the requirement baseline for the 2005 CUP and then determine the incremental new entitlements that the 2014 CUP will grant. A major disagreement exists regarding occupancies permitted by the 2005 CUP.

Substantial issues exist regarding physical noise mitigation required, especially for the terrace. The acoustic contractor cannot determine the absolute value of noise reduction necessary, to reduce selective hearing levels of music and voice, so that the non-ambient noise does not annoy residents.

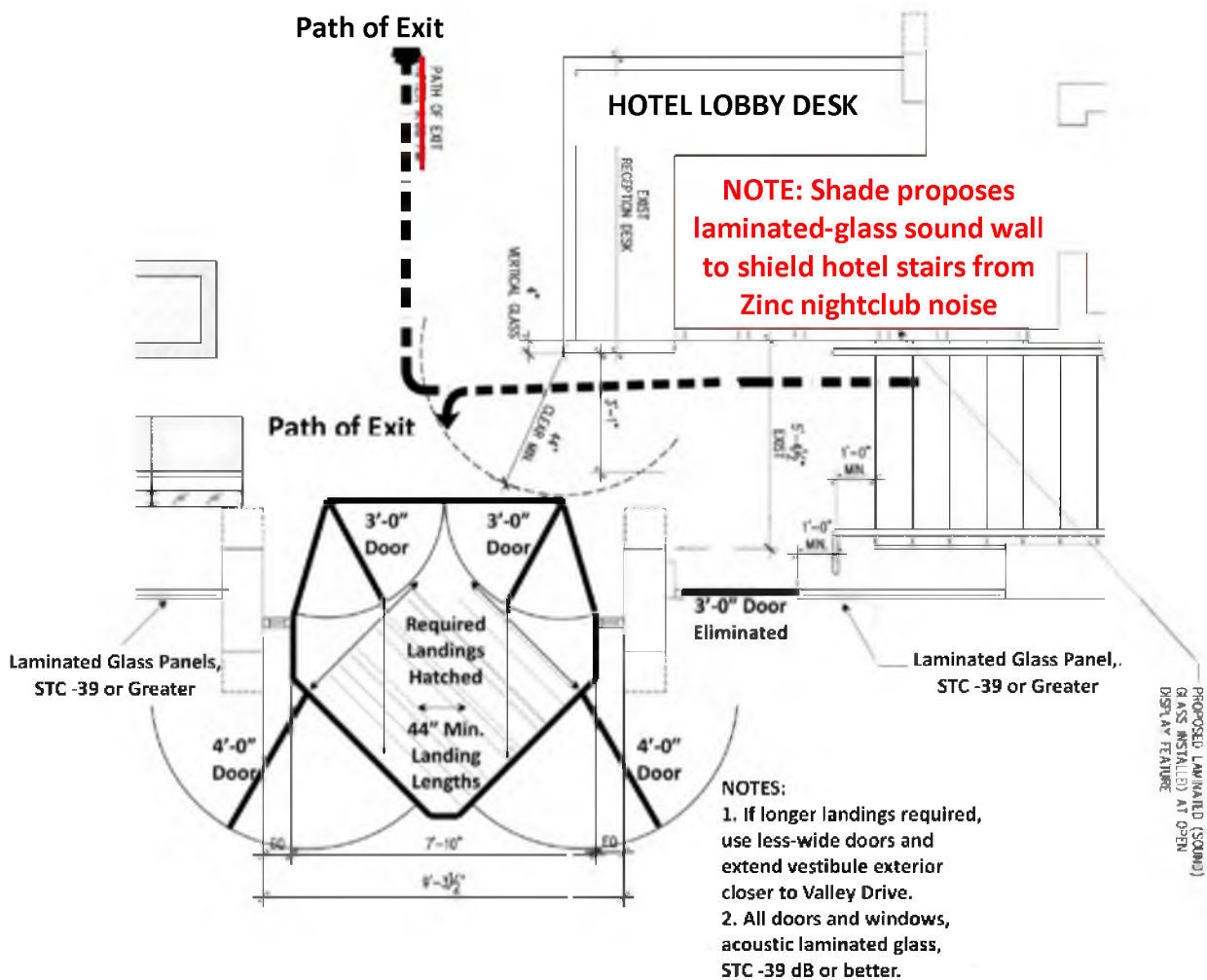
Consequently, the planning commission should impose all physical and operation mitigation measures deemed effective and practical.

PROPOSED LOBBY, TERRACE AND COURTYARD NOISE MITIGATION FOR SHADE HOTEL

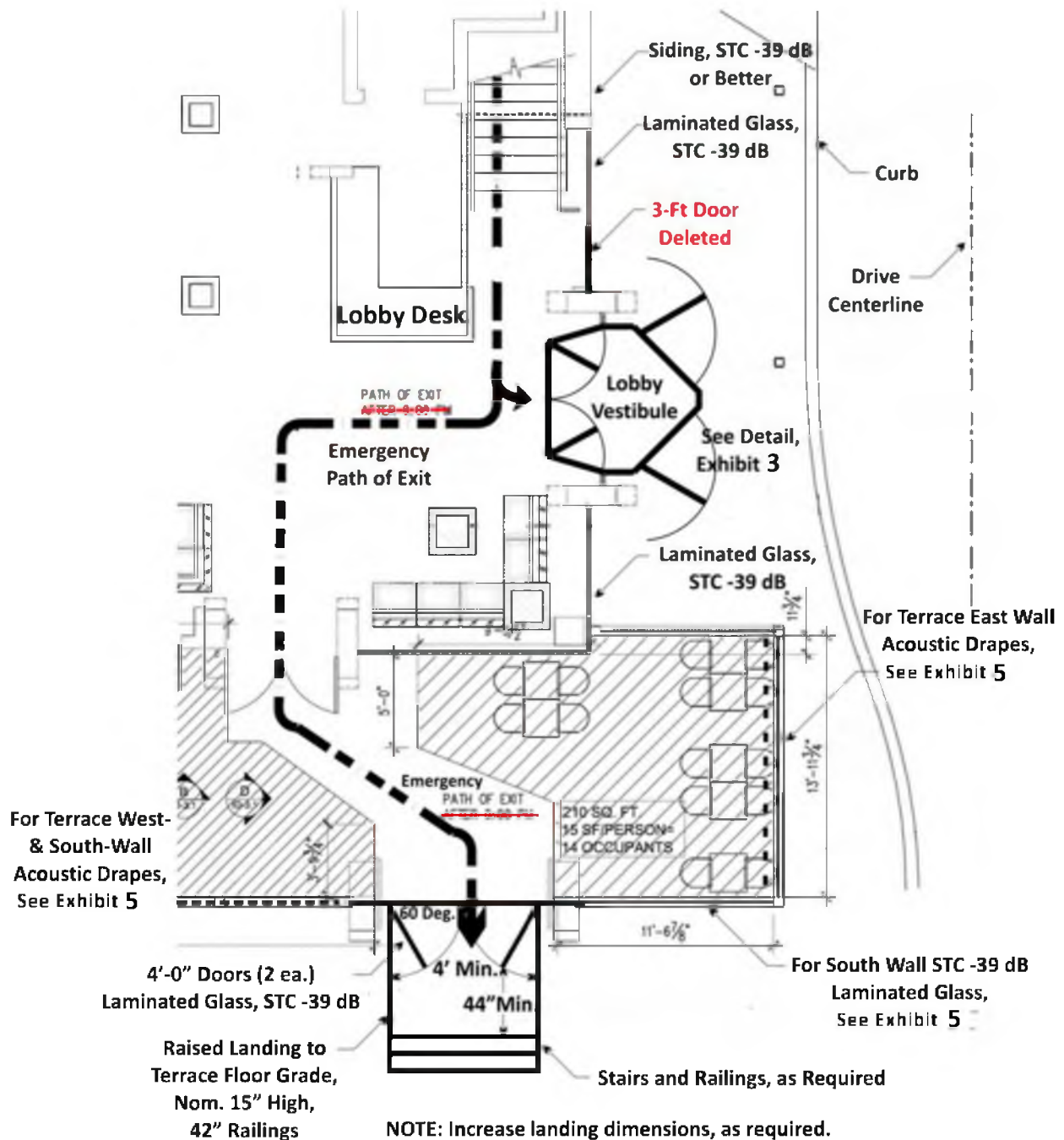


LOBBY MITIGATION: VESTIBULE & LAMINATED SOUND-GLASS PANELS

- Vestibule meets all California Building Code standards
- Considerable room to increase landing dimensions, if required
- Laminated sound-glass panels, STC -39 dB, replace existing single-glazed windows



TERRACE ENCLOSURE INCLUDES 8-FT WIDE INGRESS-EGRESS DOORS

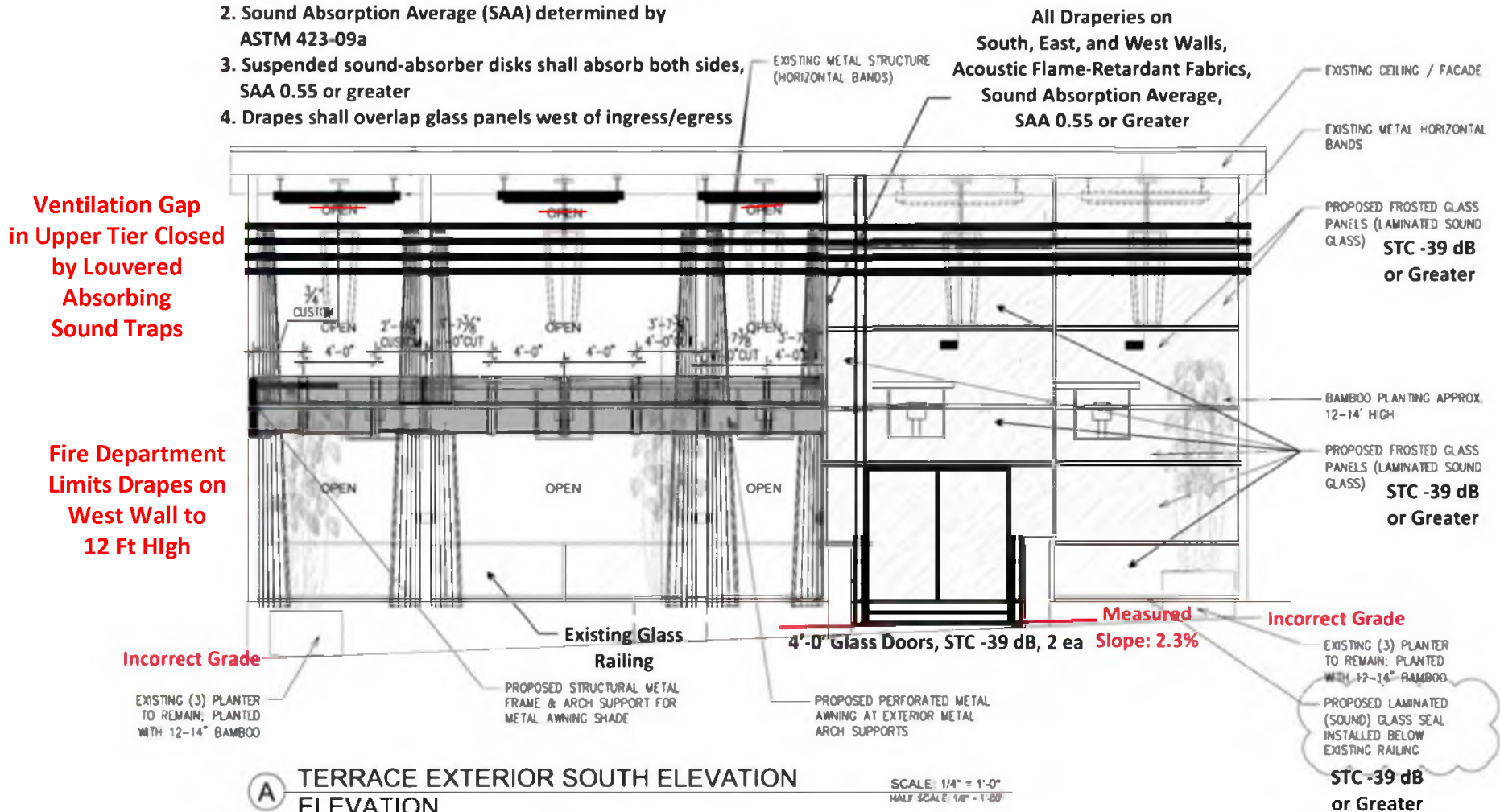


TERRACE ENCLOSURE: GLASS PANELS EAST SIDE; ACOUSTIC DRAPES WEST SIDE

- STC -39 dB glass panels on terrace south wall extended to include ingress-egress double-door assembly
- After 9 PM, acoustic drapes shall cover the east single-glazed glass panel wall
- Acoustic drapes shall have Sound Absorption Average [SAA] of 0.55 or greater
- Acoustic drapes fire retardant treated, pursuant to California Code of Regulations Title 19, Articles 3 and 8

NOTES:

1. Flame-retardant shall comply with CA fire code, California Code of Regulations Title 19, Articles 3 and 8
2. Sound Absorption Average (SAA) determined by ASTM 423-09a
3. Suspended sound-absorber disks shall absorb both sides, SAA 0.55 or greater
4. Drapes shall overlap glass panels west of ingress/egress



STAFF REPORT FOR SHADE HOTEL, 23 APRIL 2014 (SEE REDLINE BELOW)

“...door on the Terrace entrance and new upgraded sound rated curtains are the only really effective and clearly significant noise mitigation improvement.”

Building Safety, Fire and Police input

Draft conditions (Exhibit A) were prepared by Planning staff for review and input from the Building Safety Division, Fire and Police Departments, as well as the City Attorney’s office. Staff meet with all of the other Departments several times and revised the conditions based on their input. The City Attorney’s office also provided comments and revisions that will be incorporated into the final Resolution. Staff will continue to work closely with all Departments to ensure that any conditions developed are realistic and enforceable. Representatives from all the Departments will be present at the meeting to respond to Commission questions.

The preliminary plans that were submitted by the applicant to plan check for the revolving door and the Terrace modifications were returned to the City and the applicant with comments and corrections from the City’s outside consultants for Building and Fire commercial plan check. The applicant is currently in the process of reviewing and responding to those comments and corrections and will work with the plan check consultants to address and resolve any issues. The plans are only preliminary at this point and do not include the structural, mechanical, electrical or other details that are required for a complete plan check, so this review is limited. The review strives to focus on if there are any aspects of the project that could be potentially infeasible due to Building Safety, Fire and other Code requirements. Additionally, the applicant has hired a structural engineer to evaluate modifying the structural column at the front of the hotel outside of the main entry off of Valley Drive. This would allow adequate room for a vestibule, instead of a revolving door, as well as the required Building Safety and Fire access. The applicant has indicated that if needed they will proceed with this evaluation after the direction from this Planning Commission meeting is provided.

At the last meeting the Commission asked for more information on the “zero tolerance” enforcement policy of the Police Department. In September 2012, the swing shift Watch Commander met with Shade Hotel management to discuss Police Department protocol and their zero tolerance position regarding verified noise complaints. Basically the “zero tolerance” policy means that if there is a violation of the noise ordinance Police Officers will issue a citation instead of just a warning. Police staff proactively patrol the neighborhood occasionally during evening hours, particularly on Thursday through Saturday. The Police will continue to maintain a “zero tolerance” policy responding to any neighbor complaints in a timely manner.

Noise consultant

The noise consultant, Behrens and Associates, prepared a Noise Mitigation Evaluation Report that evaluates options for the Terrace and the front entrance to mitigate noise. This evaluation is attached as Exhibit E. These improvements would be in addition to those already evaluated in the February 4, 2014 report (Exhibit F) that included additional Terrace glass panels and sealing the existing glass panel gaps, installing acoustic material on the Terrace ceiling, and installing a revolving door and disabled access door at the main east Hotel entrance off of Valley Drive. The report indicates that when assessing noise reduction, a decrease in noise level of 3 dB is just perceptible; a decrease of 5 dB is considered clearly noticeable and a decrease of 10 dB is very significant and corresponds to a perceived halving in noise level. A minimum reduction of 5 dB must be achieved for the reduction to be considered significant. The report concludes that a door on the Terrace entrance and new upgraded sound rated curtains are the only really effective and

STAFF REPORT FOR SHADE HOTEL, 23 APRIL 2014 (SEE REDLINE BELOW)

clearly significant noise mitigation improvement. A door alone on the Terrace entrance would possibly be a noticeable improvement. The addition of a fiberglass canopy over the existing metal arches at the front entry off of Valley Drive could have a negative impact on noise and is not recommended. Options for a vestibule in lieu of a revolving door are being further explored by the applicant and this option is anticipated to provide more noise mitigation than the revolving door. The Commission also requested that the Acoustical Engineer provide an explanation of selective hearing/selective attention. The Acoustical Engineer from Behrens and Associates will be at the meeting to address questions that the Commission may have.

This Noise Evaluation gives the Commission the ability to determine which noise mitigation measures are most effective and desirable and develop a list of conditions. The draft proposed conditions have been written to require that certain noise mitigation be installed initially, that there will then be a review for effectiveness, and if necessary additional noise mitigation measures could be required.

Code Noise Standards

The Manhattan Beach Municipal Code provides two standards for evaluating noise. The first is a decibel level standards, and as an objective standard this is the standard that is used to evaluate impacts and mitigation in the Behrens reports (MBMC Section 5.48.160). A subjective, or “reasonable person standard”(MBMC Section 5.48.140) is also provided in the Code and these technical noise reports do not address the subjective standard. For land use decisions, such as this Master Use Permit Amendment, it is appropriate for the Planning Commission to consider all sorts of evidence. The Commission will consider the noise studies (the objective standards), as well as the neighbors and patrons testimony (the subjective standard). The Use Permit and General Plan purpose, findings, criteria, goals and policies should also be considered by the Commission when making the decision. Below is a link to the MBMC Section 5.48 that regulates Noise:

http://library.municode.com/HTML/16473/level2/TIT5SAHE_CH5.48NORE.html

Applicant meetings

Staff meet with the applicant several times to discuss the input from the Planning Commission, and proposed draft Use Permit conditions to address the comments from the Commission as well as the residents. The applicant has prepared draft conditions for the Commissions consideration attached as Exhibit B. This document was submitted just prior to the distribution of the staff report so staff has not had time to thoroughly review and comment on the proposal at this time, however the following highlights some of the key aspects of the applicants proposed conditions that differ from staff’s recommendation:

1. Closing- All areas to be vacated 30 minutes after closing time.
2. Hours of operation (closing)- Zinc bar/Lobby/Terrace-11 PM Sunday to Thursday and midnight Friday, Saturday and Sundays before Memorial Day and Labor Day.
3. Alcohol service to stop 20 minutes before closing.

Behrens and Associates, Inc.*Acoustics, Noise and Vibration Consultants*

City of Manhattan Beach

April 16, 2014

Page 3

corresponds to a perceived halving in noise level. A minimum reduction of 5 dB must be achieved for the reduction to be considered significant. The term ‘significant’ means that the noise reduction will be noticeable but does not necessarily mean that the mitigation measure will reduce the noise to a level where it is no longer an issue for the residents.

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

South Terrace Noise (Figures 1 through 9)

The unmitigated noise map for the south terrace noise only is presented in Figure 1. This is the same noise map presented in our previous noise assessment reports for the unmitigated scenario. This noise map was calibrated to noise measurements made as part of our original 2009 noise study. Although noise levels may be lower now than at that time, these levels have been used as a basis for this latest assessment to permit a like-for-like comparison of the various proposed mitigation measures across all the studies performed since 2009.

The noise maps in Figures 2 through 9 provide the estimated noise levels and difference maps for Scenarios 1 through 4. The noise maps in Figures 2 and 3 indicate that the upgraded sound rated curtains at the terrace (Scenario 1) will reduce the noise by up to 8 dB at the residences. This represents an improvement of only 1 dB compared to the existing curtains. This reason that a larger decrease in level is not achieved is attributed to the fact that the south entrance to the terrace remains open for this scenario. For this scenario it was assumed that the curtains would have a Sound Transmission Class (STC) rating of at least 17.

The noise maps in Figures 4 and 5 indicate the installation of the awning in addition to the sound rated curtains at the terrace (Scenario 2) will reduce the noise by up to 8 dB at the residences and will therefore not produce any further reduction in sound level. This is also true of the noise levels after the installation of the acoustically absorptive living wall on the north façade of Petros (Scenario 3), for which an 8 dB reduction is also observed (see Figures 6 and 7). The absorptive wall was modeled as covering the areas of the upper and lower façades of the north wall where it would not obstruct windows or doors.

Figures 8 and 9 indicate that the addition of a door at the south entrance to the terrace (Scenario 4) would significantly improve the noise reduction. For this scenario the estimated noise reduction at the residences is 16 dB.

Although the sealing of gaps in the existing terrace glass walls has not been specifically analyzed, it is our opinion that these gaps should be sealed to give the best chance of achieving

ENTERTAINMENT PERMITS IMPROPERLY INCREASED OCCUPANCY BY 154

SUMMARY OF OCCUPANCY INCREASES FOR SHADE HOTEL.

In 2004, the Fire Department originally determined occupancies for Shade Hotel, by establishing them in the building permit, approved 19 August 2004. During 2008, staff over doubled the occupancies of the Zinc Lounge, the terrace and the rooftop Skydeck, by means of the entertainment permit. This improperly increased occupancy in alcohol-service venues by 154 patrons. The entertainment permit cannot reduce restrictions imposed by the use permit.

The occupancy increase constitutes intensification. The city Local Coastal Program requires an amendment to the Metlox coastal permit for any change in intensification.

Table 1 below itemizes the 154-occupancy increase for alcohol-serving venues.

Venue	2005 CUP Occupancies	Entertainment Permit Occupancies, 2008	Occupancy Increase
Zinc Lounge-Lobby	77	159	82
Courtyard	151	151	0
Terrace	22	47	25
2 nd Fl Meeting Room	44	44	0
Skydeck	45	92	47
Total Increase			154

Staff states the Fire Department [FD] first determined occupancies in 2006. In May 2005, however, the planning commission could not have approved those occupancies for the 2005 CUP. Instead, according to the record, the commission approved occupancies determined in 2004 by the FD for the hotel building permit, nearly a year before the 2005-CUP hearing in May 2005. Table 1 lists the occupancies approved for the 2005 CUP, as stated in the 2004 building permit and in Mr. Zislis’s testimony to the planning commission on 25 May 2005.

To determine occupancies, the Fire Department applies building-code standards in terms of square-feet per person, as follows: a) 15 sq-ft for chairs and tables; b) 7 sq-ft for chairs only; and, c) 5 sq-ft for standing.¹ For example, in Table 1, the courtyard occupancy of 151 corresponds to a dining configuration with tables and chairs. For an intensified use, such as a standing-only cocktail party, the courtyard would have occupancy of 453. Please recall that the current Shade application proposed an occupancy increase to 90 on the terrace, which would have intensified its use, by applying the 7 sq-ft per person standard, rather than 15 sq-ft.

Staff claims that the planning commission approved for the 2005 CUP, the upwardly revised occupancies determined by the FD in 2006, one year later. The record shows the 2005 planning commission approved occupancies established by the FD in the 2004 building permit.

EVIDENCE FOR OCCUPANCY CHANGES.

Exhibit 1 provides the chronology of occupancy increases for Shade Hotel, from the 2002 Metlox Master Use Permit to present. The Metlox CUP contains no occupancy data, because only a concept existed at that time, namely a boutique B&B. [Exhibit 1, Item 1]

¹ 2013 California Building Code, Title 24, Chapter 10, Means of Egress, Table 1004.1.2

ENTERTAINMENT PERMITS IMPROPERLY INCREASED OCCUPANCY BY 154

During 2004, the Fire Department established occupancies for the hotel building permit, approved in August 2004. [Item 2] At the May 25 hearing for the 2005 CUP, according to the video, the planning commission did not modify the building-permit occupancies.

In plans on file with the city, Pages 24 and 25 in the 2004 building-permit require 'Maximum Occupancy' signs for 77 in the Zinc Lounge-lobby and for 44 in the 2nd floor meeting room. Exhibit F in the staff report for the 2005-CUP hearing included these building-permit plans. [Item 5]

The descriptions on Pages 5 and 115 in the 2004 building permit state the occupancy of the rooftop Skydeck as 45 persons.

The design in the building permit also established the occupancy for the courtyard. Condition 28 in the Metlox CUP permits the courtyard to have special events, with a maximum occupancy determined by the Fire Department. The courtyard area divided by 15 sq-ft per person equals approximately 151 patrons, corresponding to dining with chairs and tables.

At the 2005 hearing, Ms. Jester testified the terrace would not serve alcohol or food. [Item 7] Mr. Zislis testified the terrace would serve breakfast only, with occupancy of 22. [Item 8] No other records exist regarding terrace occupancy, until the first 2008 entertainment permit, which increased terrace occupancy to 47. [Item 11] Condition 28 in the Metlox CUP excludes special events on the terrace, so Shade cannot operate it at maximum occupancy.

The second entertainment permit for 2008 increased occupancy of the Zinc Lounge-lobby to 159, from 77, and the occupancy of the rooftop Skydeck to 92, from 45. [Item 12] Condition 28 in the Metlox CUP excludes special events on the Skydeck, so Shade cannot operate it at maximum occupancy.

Staff knows that the 2004 building permit specified occupancies less than their occupancies in the entertainment permits during 2008-2014. Exhibit 2 provides first-page excerpts from the two entertainment permits issued in 2008. The first, approved 2 Sep 2008, shows occupancies for the Zinc Lounge and Skydeck corresponding to the values in Table 1 for the building permit, 77 and 45 patrons, respectively. The second, approved 19 Dec 2008, over doubles the Zinc Lounge and Skydeck occupancies, to 159 from 77 and 92 from 45 patrons, respectively.

CONCLUSIONS.

Table 1 above compares the 2005-CUP occupancies listed in Exhibit 1, Item 9, with the entertainment-permit occupancies in Exhibit 1, Items 12 and 13, to obtain a total occupancy increase of 154 in alcohol-serving venues. This increase translates directly into intensification.

Staff improperly used the entertainment permit to increase the occupancies. The increases do not constitute entitlements, because an entertainment permit cannot reduce use-permit restrictions.

The city Local Coastal Program requires a modification to the Metlox coastal permit for any ***change*** in intensification, either increase or decrease. As a rule of thumb, a 10% or more change triggers a coastal-permit action. The 154-patron change in occupancy for alcohol-serving areas constitutes a 31% increase from the 2005-CUP occupancy for those venues.

EXHIBIT 3. ANALYSIS OF OCCUPANCY RESTRICTIONS APPROVED IN SHADE HOTEL 2005 CUP

2008 ENTERTAINMENT PERMITS INCREASED OCCUPANCY IN ACOHOL-SERVING VENUES BY 154 PATRONS

See next page for superscripted notes.

Item	Date	Public Record	Comments	Occupancies ¹ (Heading descriptions, next page)				
				Zinc/ Lobby	Court- Yard	Terrace	Conf. Room	Sky Deck
1	16Jul02	Metlox master CUP	No occupancy or terrace information					
2	19Aug04	Building permit plans, on file with city, copies not permitted	<ul style="list-style-type: none"> ●Pages 5, 24, 25, 26 & 115 ●1st floor occupancy: 204² ●Zinc-lobby wall not included 	77 ²	151 ³		44 ²	45 ²
3	No Date	2005 CUP application	<ul style="list-style-type: none"> ●States no occupancy increase ●1st floor occupancy: 204² ●Includes Zinc-lobby sound wall ●Terrace/porch not mentioned 					45 ²
4	25May05	2005 staff report	<ul style="list-style-type: none"> ●States no occupancy increase ●1st floor occupancy: 204² ●Includes Zinc-lobby sound wall ●Terrace/Porch not mentioned 					
5	25May05	Exhibit F plans	Same as building plans, Item 2 ²	77 ²			44 ²	
6	25May05	Draft 2005 CUP	<ul style="list-style-type: none"> ●Finding S(4): no occupancy increase ●Includes Zinc-lobby sound wall ●Terrace/Porch not mentioned 	77 ²	151 ³		44 ²	45 ²
7	25May05	Ms. Jester testimony	No alcohol-food service on terrace ⁴			0 ⁴		
8	25May05	Mr. Zislis testimony	Terrace breakfast only, 22 occupants ⁵			22 ⁵		
9	25May05	Approved 2005 CUP	Condition 1 requires compliance with plans and project description ⁶	77 ²	151 ³	22 ⁵	44 ²	45 ²
10	2006-07	Entertain. Permits ⁷	No occupancies stated					
11	2008	1 st Entertain. Permit ⁷	Public areas only; no guests in rooms	77 ²	200⁸	47⁹		45 ²
12	2008	2 nd Entertain. Permit ⁷	Ditto above	159¹⁰	151 ³	47⁹	44 ²	92¹⁰
13	2009-14	Entertain. Permits ⁷	Ditto above	159¹⁰	151 ³	47⁹	44 ²	92¹⁰

**NOTE: Bold, italicized entries in red exceed 2005-CUP limits.
These occupancy increases do not constitute entitlements,
because improperly increased by entertainment permit.**

2008 ENTERTAINMENT PERMITS INCREASED OCCUPANCY IN ACOHOL-SERVING VENUES BY 154 PATRONS

SUPERSCRIPED NOTES IN PRECEEDING TABLE FOR OCCUPANCY INCREASES

Note	Item Nos.	Descriptions
1	Headers	<ul style="list-style-type: none"> ●Zinc/Lobby: Zinc expanded to include the hotel lobby, by second 2008 entertainment permit ●Court Yard: Courtyard in center of building, open at the top and surrounded by external walls ●Terrace: Open covered terrace, on south side of 1st floor ●Conf Room: Conference room on 2nd floor ●Sky Deck: Roof-top outdoor area with pool
2	2, 3, 4, 5, 9, 11, 12, 13	The 2004 building-permit occupancies for: The total building [334]; The 1 st floor [204]; The 2 nd floor [85]; and, The Sky Deck [45]. The occupancies include guests in rooms. Plans show 77 occupancy for the Zinc Lounge plus lobby and 44 for the 2 nd floor conference room, at Pages 24 and 25, respectively.
3	2, 6, 9, 12, 13	For special events, the Metlox CUP Condition 28 permits 151 occupancy in the courtyard, the maximum approved by Fire Department. Condition 28 excludes the terrace and Skydeck from special events.
4	7	At the 2005 CUP hearing, Ms. Jester testified the terrace would have no alcohol or food service
5	8	At the 2005 CUP hearing, Mr. Zislis testified the terrace seated 22 persons . This is the only reference to the terrace occupancy, before staff raised it to 47 in the first 2008 entertainment permit.
6	9	Condition 1 in 2005 CUP requires compliance with occupancies listed in: 1) The building permit [Item 2]; 2) The application and staff report [Items 3 & 4]; and, 3) The Exhibit F plans [Item 5]
7	10 thru 13	Entertainment permits, required annually. Cannot reduce restrictions set forth in the use permit.
8	11	Erroneous 200 occupancy for the courtyard , in the first 2008 entertainment permit; does not correspond to 15 sq-ft per occupant, for seated dining
9	11 thru 13	Terrace occupancy increased to 47 , from 22, by the first 2008 entertainment permit
10	12 & 13	Zinc Lounge and Sky Deck occupancies over doubled , from 77 to 159 and from 45 to 92, respectively, by the second 2008 entertainment permit

FIRST 2008 ENTERTAINMENT PERMIT SHOWS OCCUPANCIES FROM 2004 BUILDING PERMIT

GROUP ENTERTAINMENT PERMIT: Class I. Effective to March 1, 2009.
Location: 1221 N Valley- Shade Hotel- Metlox **Approved 2 September 2008**

CONDITIONS OF APPROVAL

Police Department:

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

Fire Department:

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

- Roof Deck - 45 **Same as in 2004 building permit**
- Lobby Bar (Zinc Lounge)- 77 **Same as in 2004 building permit**
- Patio to south of Zinc Lounge- **47 Increased from 22, Mr Zislis testimony**
- Courtyard Area - 200 **Erroneous; does not correspond to 151 patrons, seated dining**

Community Development Department:

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

SECOND 2008 ENTERTAINMENT PERMIT DOUBLED ZINC AND SKYDECK OCCUPANCIES

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

Location: 1221 N Valley- Shade Hotel- Metlox **Approved 19 December 2008**

CONDITIONS OF APPROVAL

Police Department:

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

Fire Department:

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

Roof Deck - 92 **Increased from 45 in first 2008 entertainment permit**
Lobby Bar (Zinc Lounge) - 159 **Increased from 77 in first 2008 entertain. permit**
Patio to south of Zinc Lounge- 47 **Increased from 22, Mr Zislis testimony**
Courtyard Area - 151 **Corrected from 200 in first 2008 Entertainment permit**
Conference Room - 44 **Same as in 2004 building permit**

Community Development Department:

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

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Angela Soo

Subject: FW: Attachment of My Shade Input to the May 28 Staff Report
Attachments: 140520-2014CUP-Entitlements-Compiled.pdf; 140520-McP-PC-CoverEmail-Shade-CUP2014Overview.pdf

From: Don McPherson [<mailto:dmcphersonla@gmail.com>]
Sent: Tuesday, May 20, 2014 2:48 PM
To: Richard Thompson; Laurie B. Jester
Cc: Angela Soo; Nate Hubbard; Wayne Partridge
Subject: Attachment of My Shade Input to the May 28 Staff Report

I respectfully request that you include as exhibits in the staff report for the May 28 hearing on Shade Hotel, my email and its attachment submitted to the PC today. The attachments to this email include both pdf files.

For the May 14 public hearing on the 900 Club, the staff report did not include as exhibits, the inputs from Wayne Partridge and me, although we submitted them on or before the Tue May 6 deadline.

From: Don McPherson [<mailto:dmcphersonla@gmail.com>]
Sent: 20 May, 2014 14:32
To: Chris Conaway (cconaway@citymb.info); 'Kathleen Paralusz (kparalusz@citymb.info)'; 'Martha Andreani (mandreani@citymb.info)'; Paul Gross (pgross@citymb.info); Steve Ortmann (sortmann@citymb.info)
Cc: Bruce Moe (bmoe@citymb.info); Quinn Barrow (qbarrow@citymb.info); Diana Varat (dvarat@citymb.info); Richard Thompson (rthompson@citymb.info); Laurie Jester (ljester@citymb.info); Nate Hubbard (natehubz@mac.com); Stephanie Hubbard (steffhubz@verizon.net); Wayne Partridge (wepmako@gte.net)
Subject: Overview of Shade 2014 CUP Entitlements, 2005 CUP Requirements and Mitigation Measures

Planning Commission
City of Manhattan Beach
Via Email

Subject: Overview of 2014 CUP Entitlements, 2005 CUP Requirements and Mitigation Measures for Shade Hotel
Chairman Gross and Commissioners,

During the past five months, I have submitted to you a considerable amount of evidence and analyses, regarding modification of the use permit for Shade Hotel. The attachment summarizes all that information in two pages, supported by a few exhibits, necessary to update the material with information from the April 23 hearing.

With all due respect to the prerogatives of the Planning Commission, I take the liberty to suggest a three-step process, namely:

1. Start with the requirements in the current use permit, Resolution No. PC 05-08 ["2005 CUP"], as approved by the Planning Commission in May 2005;
2. Quantify the new entitlements granted by the proposed resolution ["2014 CUP"]; and,
3. Formulate effective physical and operational mitigation measures that will largely eliminate the disturbances that will result from the increased intensification of use.

Nobody can determine the absolute noise reduction in dB's, required to suppress levels of music and voice from Shade Hotel, so that the phenomenon of selective hearing does not disturb and annoy the neighbors. Consequently, to neutralize the intensification of use resulting from the new 2014 CUP, the

commissioners have at their disposal, only the exercise of common sense, to require effective and practical measures for noise mitigation.

All parties have provided an information overload, in pursuit of our mutual objectives. I would like the opportunity to brief each of you for an hour, on my contributions to this welter of data. Employing a non-advocacy fact-based ground rule, I can efficiently page through the evidentiary records, if that would answer any questions the commissioners might have.

Thanks for listening to us residents, since January 22 of this year,

Don McPherson
1014 1st St, Manhattan Beach
Cell: 310 487 0383
dmcphersonla@gmail.com

OVERVIEW OF 2014 CUP NEW ENTITLEMENTS AND REQUIRED MITIGATION

SUMMARY.

With utmost sincerity and profound respect for the prerogatives of the Planning Commission, I offer the following observations regarding your responsibilities, in the matter of modifying the use permit for Shade Hotel.

The Planning Commission should:

1. Understand the requirements in the 2005 CUP, as approved by the 2005 Planning Commission, notwithstanding the invalid lessening of restrictions made for operating hours and occupancies by the entertainment permits, from 2006 through 2014;
2. Quantify the new entitlements granted by the 2014 CUP, incremental to the 2005 CUP; and,
3. Formulate physical and operational mitigation measures that will largely eliminate the noise disturbances in the residential neighborhood, across the Valley-Ardmore parkway.

The table below presents an overview of 2005-CUP requirements and 2014-CUP entitlements, Items 1 and 2 above. I and other residents have provided documented evidence to substantiate the 2005-CUP requirements, so that data not included herein.

<u>2005-CUP REQUIREMENTS</u>	<u>2014-CUP ENTITLEMENTS (23 April 2014)</u>
50 dB acoustic wall assembly between the Zinc Lounge & lobby [Finding O; Condition 1; and, Entertainment Permits, 2006-2014]	Sound wall eliminated [Condition 11]
<ul style="list-style-type: none"> ●Zinc Lounge occupancy : 77 ●Skydeck occupancy: 45 ●Terrace occupancy: 22 [2004 building permit; Exhibit F plans in 25 May 2005 staff report; Finding S(4); and, Mr. Zislis 2005 application and testimony]	<ul style="list-style-type: none"> ●Zinc Lounge occupancy : 159 ●Skydeck occupancy: 92 ●Terrace occupancy: 47 ●154 total increases from the 2005 CUP [Condition 21]
Terrace close: 10 AM Monday-Friday; 11 AM Saturday-Sunday [Finding L, Condition 5]	Terrace close 11 PM daily [Condition 19]
Special events not permitted on the terrace or the SkyDeck [Condition 2 and Metlox CUP Condition 28]	Special events permitted on both the terrace and the SkyDeck [Condition 19]
Lunch service and full-scale restaurant prohibited [Finding L, Conditions 3 & 5]	Lunch service and full-scale restaurant permitted [Condition 32]
Advertising Zinc lounge and Skydeck as separate attractions prohibited [Cond. 4]	Advertising alcohol-serving venues as separate attractions permitted [Condition 33]
Menu posting outside hotel prohibited [Condition 6]	Menu posting outside hotel permitted [Condition 34]

OVERVIEW OF 2014 CUP NEW ENTITLEMENTS AND REQUIRED MITIGATION

EFFECTIVE AND PRACTICAL PHYSICAL NOISE MITIGATION MEASURES (ITEM 3 ABOVE).

On April 11, I proposed mitigation measures to the planning commission as follows:

◆ **Terrace:** 1) Full enclosure of lower tier; 2) Doors for south entrance; 3) Noise absorbers suspended from and on ceiling; 4) Acoustic curtains for all of east and south walls, except entrance; 5) 12ft high acoustic curtains on west side; and, 6) Sound-trap closure of the terrace south-wall horizontal gap at the ceiling.

◆ **Lobby:** 1) Vestibule; 2) Façade upgraded with acoustic glass; and, 3) Acoustic curtains

◆ **Courtyard:** 1) Acoustic curtains; and 2) Folding acoustic wall to isolate corridor

Exhibit 1 provides conceptual drawings of mitigation measures for the abovementioned venues. I have updated these drawings to include: 1) The maximum 12-foot height required by the Fire Department for acoustic curtains at the terrace west wall; and, 2) Closure by sound traps of the top horizontal gap in the terrace south wall, as discussed at the April 23 hearing.

Staff and the acoustic contractor, Behrens, have stated that the only effective way to mitigate terrace noise requires closure of the south entrance by doors. [Exhibit 2, Excerpts from the April 16 Behrens acoustic analysis and the April 23 staff report].

At the April 23 hearing, both Ms. Jester and acoustic analyst Mr. Corbishley testified that effective mitigation of terrace noise requires doors to close the south entrance. Mr. Behrens testified that it necessary to close gaps in the terrace south wall, for a 13 dB noise reduction.

Near the end of the meeting, however, Ms. Jester stated that the terrace south entrance must remain open. Commissioners can review this conflicting testimony. Click either YouTube at http://youtu.be/5jD3V_IW7f4 or DropBox at [23April2014-Shade-Video-TerraceEntrance](#).

CONFLICTING EVIDENCE FOR OCCUPANCIES APPROVED IN THE 2005 CUP.

As per the preceding table, occupancies in the Zinc Lounge, SkyDeck and the terrace have increased by 154 persons, a substantial intensification of use.

At the April 23 hearing, Mr. Zislis and Director Thompson testified that no changes have occurred in occupancies, since approval of the 2005 CUP on 25 May 2005.

On April 28, I submitted to the PC a detailed analysis of occupancies, based on many documents in the public record, dating back to approval of the building permit on 19 August 2004, nine months before approval of the 2005 CUP. [Exhibit 3]

The Planning Commission must reconcile these conflicting evidentiary records for occupancies permitted by the 2005 CUP.

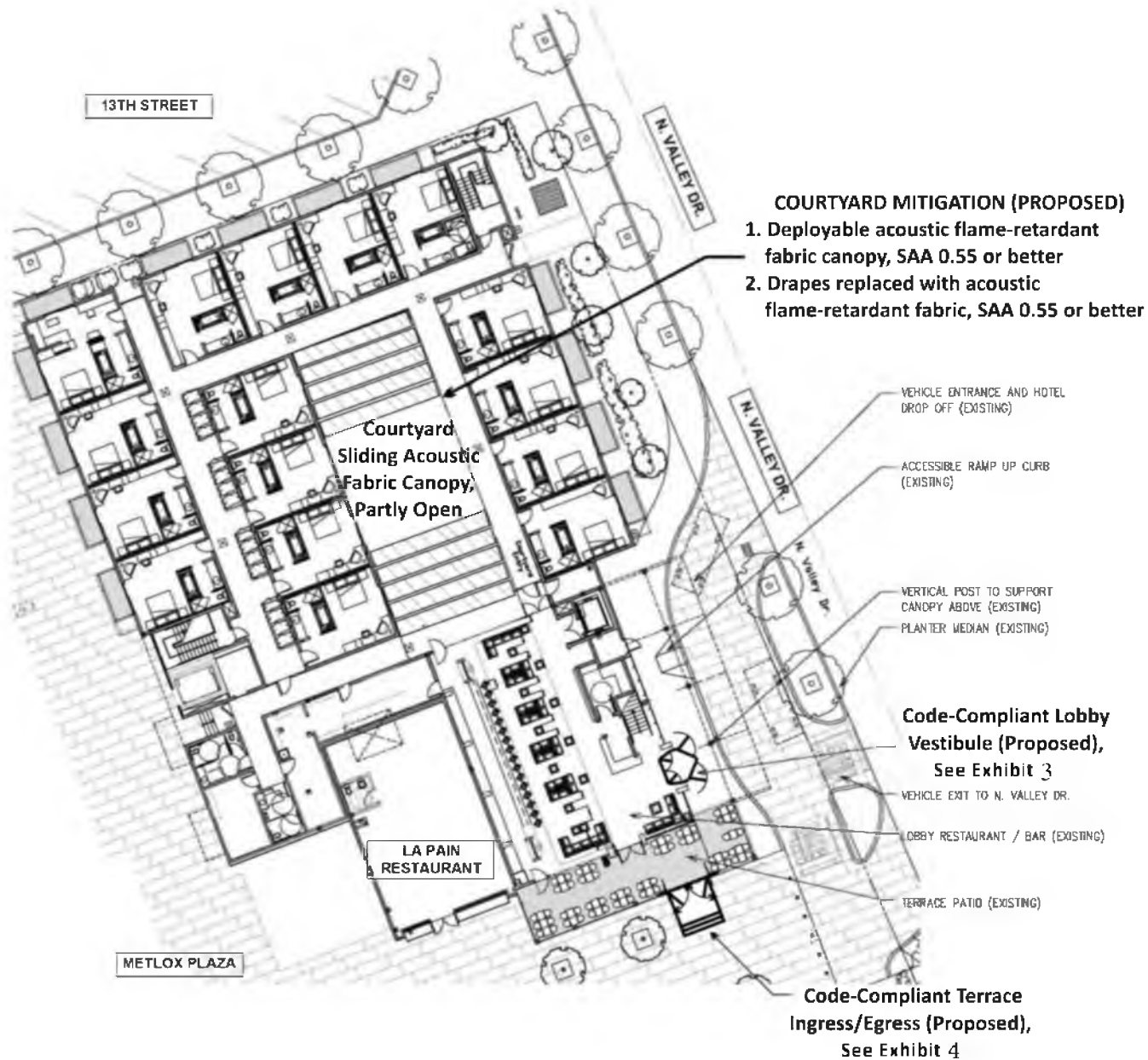
CONCLUSIONS.

The planning commission should establish the requirement baseline for the 2005 CUP and then determine the incremental new entitlements that the 2014 CUP will grant. A major disagreement exists regarding occupancies permitted by the 2005 CUP.

Substantial issues exist regarding physical noise mitigation required, especially for the terrace. The acoustic contractor cannot determine the absolute value of noise reduction necessary, to reduce selective hearing levels of music and voice, so that the non-ambient noise does not annoy residents.

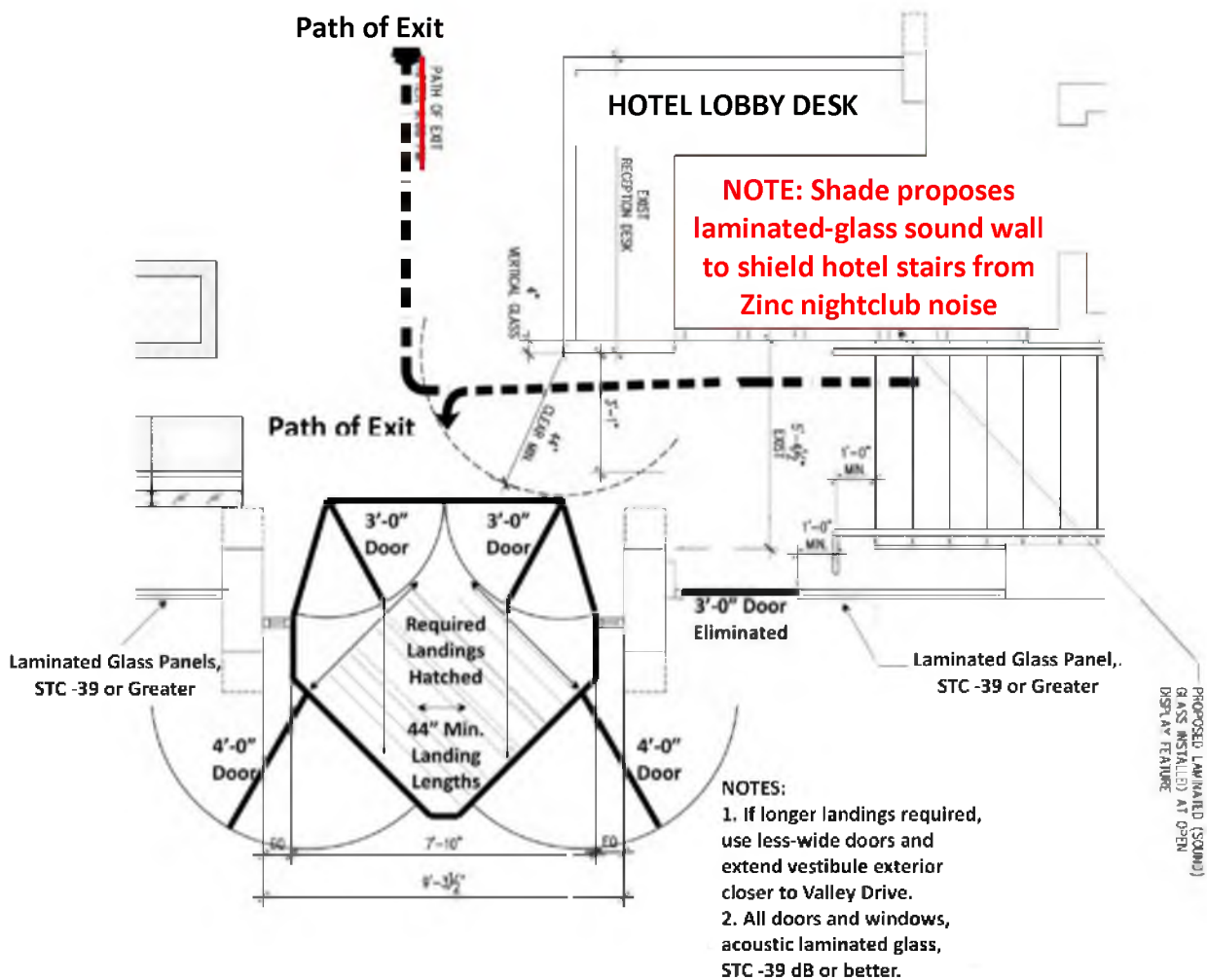
Consequently, the planning commission should impose all physical and operation mitigation measures deemed effective and practical.

PROPOSED LOBBY, TERRACE AND COURTYARD NOISE MITIGATION FOR SHADE HOTEL

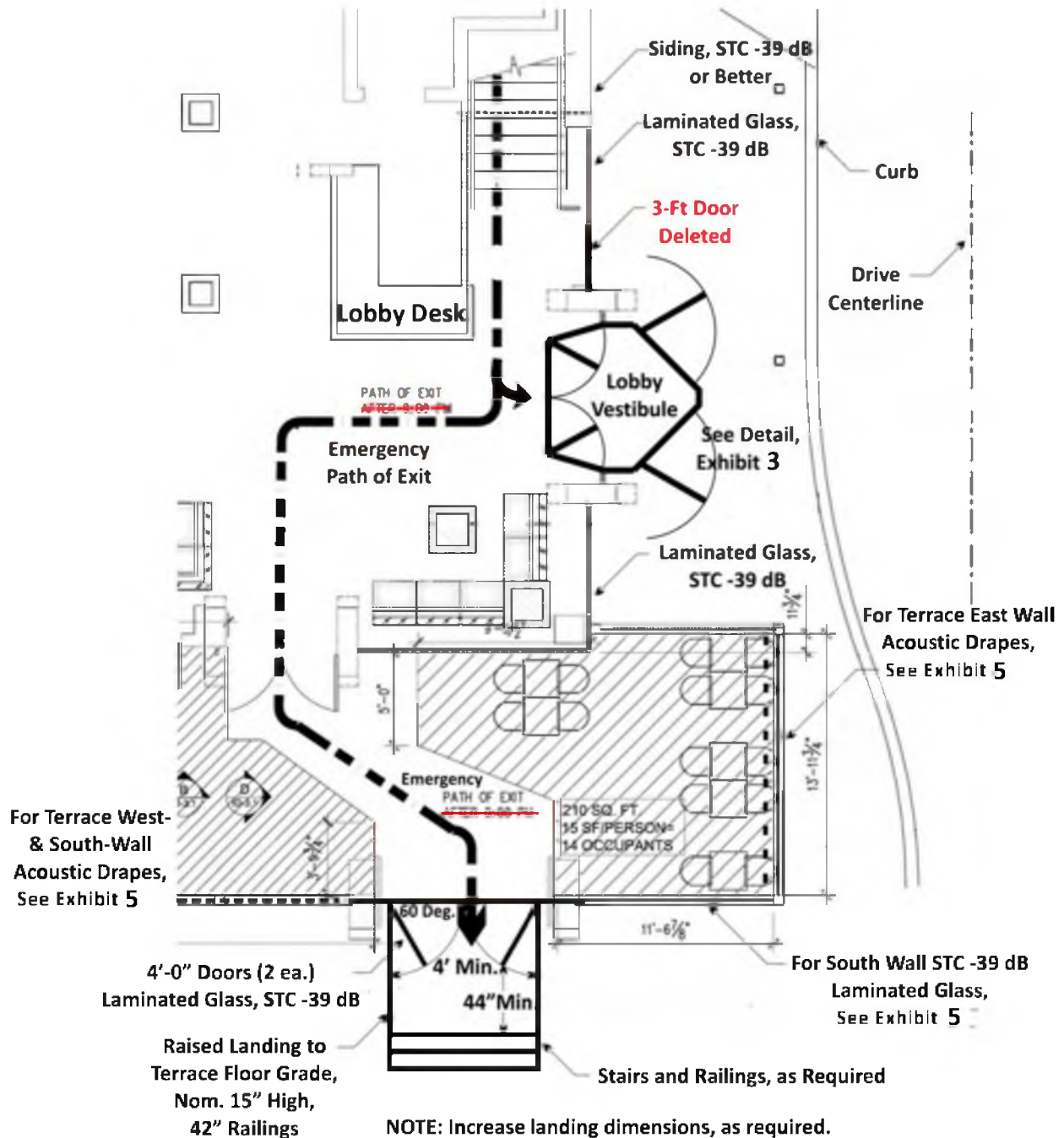


LOBBY MITIGATION: VESTIBULE & LAMINATED SOUND-GLASS PANELS

- Vestibule meets all California Building Code standards
- Considerable room to increase landing dimensions, if required
- Laminated sound-glass panels, STC -39 dB, replace existing single-glazed windows



TERRACE ENCLOSURE INCLUDES 8-FT WIDE INGRESS-EGRESS DOORS

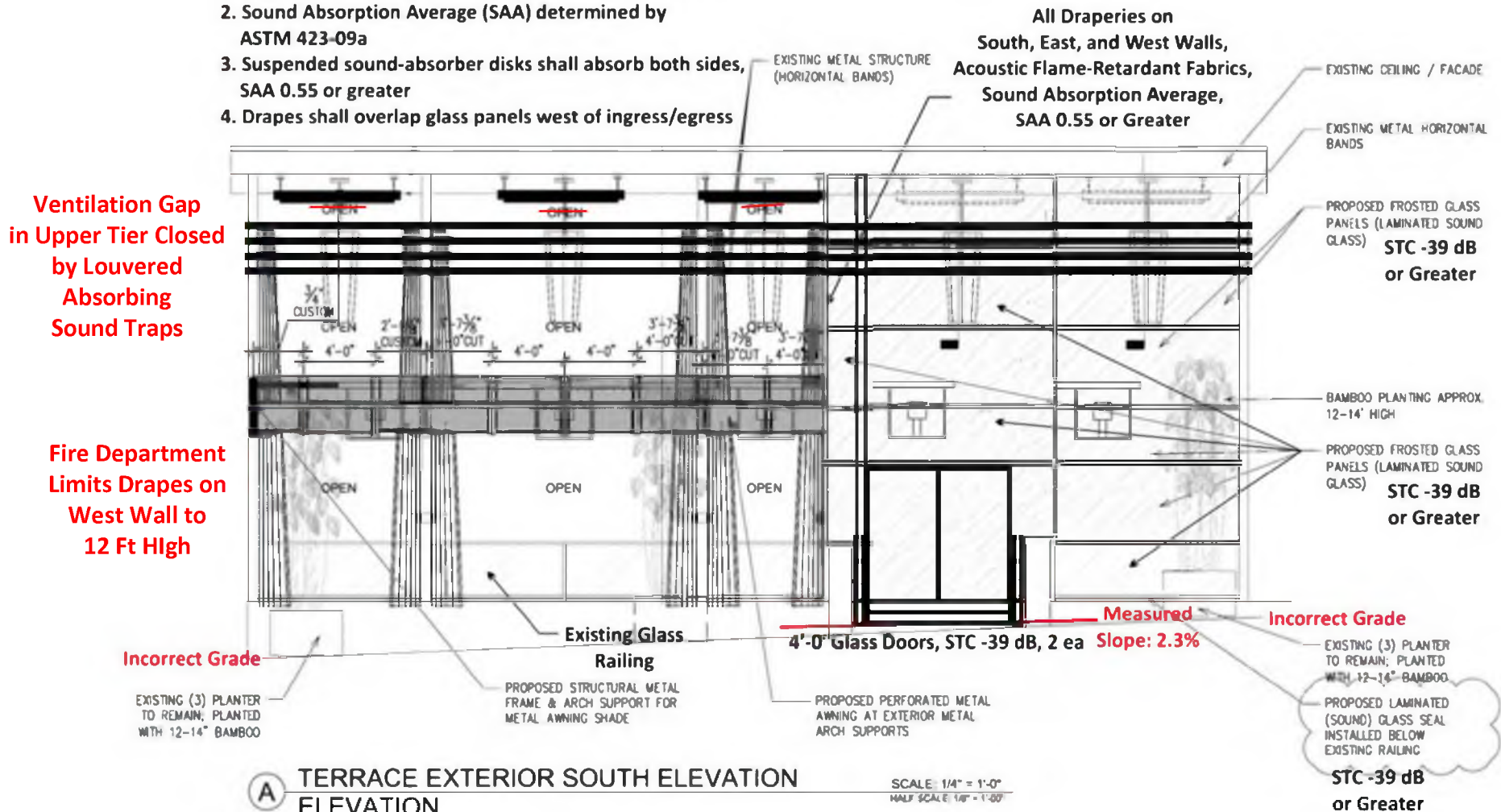


TERRACE ENCLOSURE: GLASS PANELS EAST SIDE; ACOUSTIC DRAPES WEST SIDE

- STC -39 dB glass panels on terrace south wall extended to include ingress-egress double-door assembly
- After 9 PM, acoustic drapes shall cover the east single-glazed glass panel wall
- Acoustic drapes shall have Sound Absorption Average [SAA] of 0.55 or greater
- Acoustic drapes fire retardant treated, pursuant to California Code of Regulations Title 19, Articles 3 and 8

NOTES:

1. Flame-retardant shall comply with CA fire code, California Code of Regulations Title 19, Articles 3 and 8
2. Sound Absorption Average (SAA) determined by ASTM 423-09a
3. Suspended sound-absorber disks shall absorb both sides, SAA 0.55 or greater
4. Drapes shall overlap glass panels west of ingress/egress



A TERRACE EXTERIOR SOUTH ELEVATION ELEVATION

SCALE: 1/4" = 1'-0"
HALF SCALE: 1/8" = 1'-0"

STAFF REPORT FOR SHADE HOTEL, 23 APRIL 2014 (SEE REDLINE BELOW)

“...door on the Terrace entrance and new upgraded sound rated curtains are the only really effective and clearly significant noise mitigation improvement.”

Building Safety, Fire and Police input

Draft conditions (Exhibit A) were prepared by Planning staff for review and input from the Building Safety Division, Fire and Police Departments, as well as the City Attorney’s office. Staff meet with all of the other Departments several times and revised the conditions based on their input. The City Attorney’s office also provided comments and revisions that will be incorporated into the final Resolution. Staff will continue to work closely with all Departments to ensure that any conditions developed are realistic and enforceable. Representatives from all the Departments will be present at the meeting to respond to Commission questions.

The preliminary plans that were submitted by the applicant to plan check for the revolving door and the Terrace modifications were returned to the City and the applicant with comments and corrections from the City’s outside consultants for Building and Fire commercial plan check. The applicant is currently in the process of reviewing and responding to those comments and corrections and will work with the plan check consultants to address and resolve any issues. The plans are only preliminary at this point and do not include the structural, mechanical, electrical or other details that are required for a complete plan check, so this review is limited. The review strives to focus on if there are any aspects of the project that could be potentially infeasible due to Building Safety, Fire and other Code requirements. Additionally, the applicant has hired a structural engineer to evaluate modifying the structural column at the front of the hotel outside of the main entry off of Valley Drive. This would allow adequate room for a vestibule, instead of a revolving door, as well as the required Building Safety and Fire access. The applicant has indicated that if needed they will proceed with this evaluation after the direction from this Planning Commission meeting is provided.

At the last meeting the Commission asked for more information on the “zero tolerance” enforcement policy of the Police Department. In September 2012, the swing shift Watch Commander met with Shade Hotel management to discuss Police Department protocol and their zero tolerance position regarding verified noise complaints. Basically the “zero tolerance” policy means that if there is a violation of the noise ordinance Police Officers will issue a citation instead of just a warning. Police staff proactively patrol the neighborhood occasionally during evening hours, particularly on Thursday through Saturday. The Police will continue to maintain a “zero tolerance” policy responding to any neighbor complaints in a timely manner.

Noise consultant

The noise consultant, Behrens and Associates, prepared a Noise Mitigation Evaluation Report that evaluates options for the Terrace and the front entrance to mitigate noise. This evaluation is attached as Exhibit E. These improvements would be in addition to those already evaluated in the February 4, 2014 report (Exhibit F) that included additional Terrace glass panels and sealing the existing glass panel gaps, installing acoustic material on the Terrace ceiling, and installing a revolving door and disabled access door at the main east Hotel entrance off of Valley Drive. The report indicates that when assessing noise reduction, a decrease in noise level of 3 dB is just perceptible; a decrease of 5 dB is considered clearly noticeable and a decrease of 10 dB is very significant and corresponds to a perceived halving in noise level. A minimum reduction of 5 dB must be achieved for the reduction to be considered significant. The report concludes that a door on the Terrace entrance and new upgraded sound rated curtains are the only really effective and

STAFF REPORT FOR SHADE HOTEL, 23 APRIL 2014 (SEE REDLINE BELOW)

clearly significant noise mitigation improvement. A door alone on the Terrace entrance would possibly be a noticeable improvement. The addition of a fiberglass canopy over the existing metal arches at the front entry off of Valley Drive could have a negative impact on noise and is not recommended. Options for a vestibule in lieu of a revolving door are being further explored by the applicant and this option is anticipated to provide more noise mitigation than the revolving door. The Commission also requested that the Acoustical Engineer provide an explanation of selective hearing/selective attention. The Acoustical Engineer from Behrens and Associates will be at the meeting to address questions that the Commission may have.

This Noise Evaluation gives the Commission the ability to determine which noise mitigation measures are most effective and desirable and develop a list of conditions. The draft proposed conditions have been written to require that certain noise mitigation be installed initially, that there will then be a review for effectiveness, and if necessary additional noise mitigation measures could be required.

Code Noise Standards

The Manhattan Beach Municipal Code provides two standards for evaluating noise. The first is a decibel level standards, and as an objective standard this is the standard that is used to evaluate impacts and mitigation in the Behrens reports (MBMC Section 5.48.160). A subjective, or “reasonable person standard”(MBMC Section 5.48.140) is also provided in the Code and these technical noise reports do not address the subjective standard. For land use decisions, such as this Master Use Permit Amendment, it is appropriate for the Planning Commission to consider all sorts of evidence. The Commission will consider the noise studies (the objective standards), as well as the neighbors and patrons testimony (the subjective standard). The Use Permit and General Plan purpose, findings, criteria, goals and policies should also be considered by the Commission when making the decision. Below is a link to the MBMC Section 5.48 that regulates Noise:

http://library.municode.com/HTML/16473/level2/TIT5SAHE_CH5.48NORE.html

Applicant meetings

Staff meet with the applicant several times to discuss the input from the Planning Commission, and proposed draft Use Permit conditions to address the comments from the Commission as well as the residents. The applicant has prepared draft conditions for the Commissions consideration attached as Exhibit B. This document was submitted just prior to the distribution of the staff report so staff has not had time to thoroughly review and comment on the proposal at this time, however the following highlights some of the key aspects of the applicants proposed conditions that differ from staff’s recommendation:

1. Closing- All areas to be vacated 30 minutes after closing time.
2. Hours of operation (closing)- Zinc bar/Lobby/Terrace-11 PM Sunday to Thursday and midnight Friday, Saturday and Sundays before Memorial Day and Labor Day.
3. Alcohol service to stop 20 minutes before closing.

Behrens and Associates, Inc.

Acoustics, Noise and Vibration Consultants



City of Manhattan Beach

April 16, 2014

Page 3

corresponds to a perceived halving in noise level. A minimum reduction of 5 dB must be achieved for the reduction to be considered significant. The term ‘significant’ means that the noise reduction will be noticeable but does not necessarily mean that the mitigation measure will reduce the noise to a level where it is no longer an issue for the residents.

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

South Terrace Noise (Figures 1 through 9)

The unmitigated noise map for the south terrace noise only is presented in Figure 1. This is the same noise map presented in our previous noise assessment reports for the unmitigated scenario. This noise map was calibrated to noise measurements made as part of our original 2009 noise study. Although noise levels may be lower now than at that time, these levels have been used as a basis for this latest assessment to permit a like-for-like comparison of the various proposed mitigation measures across all the studies performed since 2009.

The noise maps in Figures 2 through 9 provide the estimated noise levels and difference maps for Scenarios 1 through 4. The noise maps in Figures 2 and 3 indicate that the upgraded sound rated curtains at the terrace (Scenario 1) will reduce the noise by up to 8 dB at the residences. This represents an improvement of only 1 dB compared to the existing curtains. This reason that a larger decrease in level is not achieved is attributed to the fact that the south entrance to the terrace remains open for this scenario. For this scenario it was assumed that the curtains would have a Sound Transmission Class (STC) rating of at least 17.

The noise maps in Figures 4 and 5 indicate the installation of the awning in addition to the sound rated curtains at the terrace (Scenario 2) will reduce the noise by up to 8 dB at the residences and will therefore not produce any further reduction in sound level. This is also true of the noise levels after the installation of the acoustically absorptive living wall on the north façade of Petros (Scenario 3), for which an 8 dB reduction is also observed (see Figures 6 and 7). The absorptive wall was modeled as covering the areas of the upper and lower façades of the north wall where it would not obstruct windows or doors.

Figures 8 and 9 indicate that the addition of a door at the south entrance to the terrace (Scenario 4) would significantly improve the noise reduction. For this scenario the estimated noise reduction at the residences is 16 dB.

Although the sealing of gaps in the existing terrace glass walls has not been specifically analyzed, it is our opinion that these gaps should be sealed to give the best chance of achieving

ENTERTAINMENT PERMITS IMPROPERLY INCREASED OCCUPANCY BY 154

SUMMARY OF OCCUPANCY INCREASES FOR SHADE HOTEL.

In 2004, the Fire Department originally determined occupancies for Shade Hotel, by establishing them in the building permit, approved 19 August 2004. During 2008, staff over doubled the occupancies of the Zinc Lounge, the terrace and the rooftop Skydeck, by means of the entertainment permit. This improperly increased occupancy in alcohol-service venues by 154 patrons. The entertainment permit cannot reduce restrictions imposed by the use permit.

The occupancy increase constitutes intensification. The city Local Coastal Program requires an amendment to the Metlox coastal permit for any change in intensification.

Table 1 below itemizes the 154-occupancy increase for alcohol-serving venues.

Venue	2005 CUP Occupancies	Entertainment Permit Occupancies, 2008	Occupancy Increase
Zinc Lounge-Lobby	77	159	82
Courtyard	151	151	0
Terrace	22	47	25
2 nd Fl Meeting Room	44	44	0
Skydeck	45	92	47
Total Increase			154

Staff states the Fire Department [FD] first determined occupancies in 2006. In May 2005, however, the planning commission could not have approved those occupancies for the 2005 CUP. Instead, according to the record, the commission approved occupancies determined in 2004 by the FD for the hotel building permit, nearly a year before the 2005-CUP hearing in May 2005. Table 1 lists the occupancies approved for the 2005 CUP, as stated in the 2004 building permit and in Mr. Zislis’s testimony to the planning commission on 25 May 2005.

To determine occupancies, the Fire Department applies building-code standards in terms of square-feet per person, as follows: a) 15 sq-ft for chairs and tables; b) 7 sq-ft for chairs only; and, c) 5 sq-ft for standing.¹ For example, in Table 1, the courtyard occupancy of 151 corresponds to a dining configuration with tables and chairs. For an intensified use, such as a standing-only cocktail party, the courtyard would have occupancy of 453. Please recall that the current Shade application proposed an occupancy increase to 90 on the terrace, which would have intensified its use, by applying the 7 sq-ft per person standard, rather than 15 sq-ft.

Staff claims that the planning commission approved for the 2005 CUP, the upwardly revised occupancies determined by the FD in 2006, one year later. The record shows the 2005 planning commission approved occupancies established by the FD in the 2004 building permit.

EVIDENCE FOR OCCUPANCY CHANGES.

Exhibit 1 provides the chronology of occupancy increases for Shade Hotel, from the 2002 Metlox Master Use Permit to present. The Metlox CUP contains no occupancy data, because only a concept existed at that time, namely a boutique B&B. [Exhibit 1, Item 1]

¹ 2013 California Building Code, Title 24, Chapter 10, Means of Egress, Table 1004.1.2

ENTERTAINMENT PERMITS IMPROPERLY INCREASED OCCUPANCY BY 154

During 2004, the Fire Department established occupancies for the hotel building permit, approved in August 2004. [Item 2] At the May 25 hearing for the 2005 CUP, according to the video, the planning commission did not modify the building-permit occupancies.

In plans on file with the city, Pages 24 and 25 in the 2004 building-permit require 'Maximum Occupancy' signs for 77 in the Zinc Lounge-lobby and for 44 in the 2nd floor meeting room. Exhibit F in the staff report for the 2005-CUP hearing included these building-permit plans. [Item 5]

The descriptions on Pages 5 and 115 in the 2004 building permit state the occupancy of the rooftop Skydeck as 45 persons.

The design in the building permit also established the occupancy for the courtyard. Condition 28 in the Metlox CUP permits the courtyard to have special events, with a maximum occupancy determined by the Fire Department. The courtyard area divided by 15 sq-ft per person equals approximately 151 patrons, corresponding to dining with chairs and tables.

At the 2005 hearing, Ms. Jester testified the terrace would not serve alcohol or food. [Item 7] Mr. Zislis testified the terrace would serve breakfast only, with occupancy of 22. [Item 8] No other records exist regarding terrace occupancy, until the first 2008 entertainment permit, which increased terrace occupancy to 47. [Item 11] Condition 28 in the Metlox CUP excludes special events on the terrace, so Shade cannot operate it at maximum occupancy.

The second entertainment permit for 2008 increased occupancy of the Zinc Lounge-lobby to 159, from 77, and the occupancy of the rooftop Skydeck to 92, from 45. [Item 12] Condition 28 in the Metlox CUP excludes special events on the Skydeck, so Shade cannot operate it at maximum occupancy.

Staff knows that the 2004 building permit specified occupancies less than their occupancies in the entertainment permits during 2008-2014. Exhibit 2 provides first-page excerpts from the two entertainment permits issued in 2008. The first, approved 2 Sep 2008, shows occupancies for the Zinc Lounge and Skydeck corresponding to the values in Table 1 for the building permit, 77 and 45 patrons, respectively. The second, approved 19 Dec 2008, over doubles the Zinc Lounge and Skydeck occupancies, to 159 from 77 and 92 from 45 patrons, respectively.

CONCLUSIONS.

Table 1 above compares the 2005-CUP occupancies listed in Exhibit 1, Item 9, with the entertainment-permit occupancies in Exhibit 1, Items 12 and 13, to obtain a total occupancy increase of 154 in alcohol-serving venues. This increase translates directly into intensification.

Staff improperly used the entertainment permit to increase the occupancies. The increases do not constitute entitlements, because an entertainment permit cannot reduce use-permit restrictions.

The city Local Coastal Program requires a modification to the Metlox coastal permit for any **change** in intensification, either increase or decrease. As a rule of thumb, a 10% or more change triggers a coastal-permit action. The 154-patron change in occupancy for alcohol-serving areas constitutes a 31% increase from the 2005-CUP occupancy for those venues.

EXHIBIT 3. ANALYSIS OF OCCUPANCY RESTRICTIONS APPROVED IN SHADE HOTEL 2005 CUP

2008 ENTERTAINMENT PERMITS INCREASED OCCUPANCY IN ACOHOL-SERVING VENUES BY 154 PATRONS

See next page for superscripted notes.

Item	Date	Public Record	Comments	Occupancies ¹ (Heading descriptions, next page)				
				Zinc/ Lobby	Court- Yard	Terrace	Conf. Room	Sky Deck
1	16Jul02	Metlox master CUP	No occupancy or terrace information					
2	19Aug04	Building permit plans, on file with city, copies not permitted	<ul style="list-style-type: none"> ●Pages 5, 24, 25, 26 & 115 ●1st floor occupancy: 204² ●Zinc-lobby wall not included 	77 ²	151 ³		44 ²	45 ²
3	No Date	2005 CUP application	<ul style="list-style-type: none"> ●States no occupancy increase ●1st floor occupancy: 204² ●Includes Zinc-lobby sound wall ●Terrace/porch not mentioned 					45 ²
4	25May05	2005 staff report	<ul style="list-style-type: none"> ●States no occupancy increase ●1st floor occupancy: 204² ●Includes Zinc-lobby sound wall ●Terrace/Porch not mentioned 					
5	25May05	Exhibit F plans	Same as building plans, Item 2 ²	77 ²			44 ²	
6	25May05	Draft 2005 CUP	<ul style="list-style-type: none"> ●Finding S(4): no occupancy increase ●Includes Zinc-lobby sound wall ●Terrace/Porch not mentioned 	77 ²	151 ³		44 ²	45 ²
7	25May05	Ms. Jester testimony	No alcohol-food service on terrace ⁴			0 ⁴		
8	25May05	Mr. Zislis testimony	Terrace breakfast only, 22 occupants ⁵			22 ⁵		
9	25May05	Approved 2005 CUP	Condition 1 requires compliance with plans and project description ⁶	77 ²	151 ³	22 ⁵	44 ²	45 ²
10	2006-07	Entertain. Permits ⁷	No occupancies stated					
11	2008	1 st Entertain. Permit ⁷	Public areas only; no guests in rooms	77 ²	200⁸	47⁹		45 ²
12	2008	2 nd Entertain. Permit ⁷	Ditto above	159¹⁰	151 ³	47⁹	44 ²	92¹⁰
13	2009-14	Entertain. Permits ⁷	Ditto above	159¹⁰	151 ³	47⁹	44 ²	92¹⁰

**NOTE: Bold, italicized entries in red exceed 2005-CUP limits.
These occupancy increases do not constitute entitlements,
because improperly increased by entertainment permit.**

2008 ENTERTAINMENT PERMITS INCREASED OCCUPANCY IN ACOHOL-SERVING VENUES BY 154 PATRONS

SUPERSCRIPED NOTES IN PRECEEDING TABLE FOR OCCUPANCY INCREASES

Note	Item Nos.	Descriptions
1	Headers	<ul style="list-style-type: none"> ●Zinc/Lobby: Zinc expanded to include the hotel lobby, by second 2008 entertainment permit ●Court Yard: Courtyard in center of building, open at the top and surrounded by external walls ●Terrace: Open covered terrace, on south side of 1st floor ●Conf Room: Conference room on 2nd floor ●Sky Deck: Roof-top outdoor area with pool
2	2, 3, 4, 5, 9, 11, 12, 13	The 2004 building-permit occupancies for: The total building [334]; The 1 st floor [204]; The 2 nd floor [85]; and, The Sky Deck [45]. The occupancies include guests in rooms. Plans show 77 occupancy for the Zinc Lounge plus lobby and 44 for the 2 nd floor conference room, at Pages 24 and 25, respectively.
3	2, 6, 9, 12, 13	For special events, the Metlox CUP Condition 28 permits 151 occupancy in the courtyard, the maximum approved by Fire Department. Condition 28 excludes the terrace and Skydeck from special events.
4	7	At the 2005 CUP hearing, Ms. Jester testified the terrace would have no alcohol or food service
5	8	At the 2005 CUP hearing, Mr. Zislis testified the terrace seated 22 persons . This is the only reference to the terrace occupancy, before staff raised it to 47 in the first 2008 entertainment permit.
6	9	Condition 1 in 2005 CUP requires compliance with occupancies listed in: 1) The building permit [Item 2]; 2) The application and staff report [Items 3 & 4]; and, 3) The Exhibit F plans [Item 5]
7	10 thru 13	Entertainment permits, required annually. Cannot reduce restrictions set forth in the use permit.
8	11	Erroneous 200 occupancy for the courtyard , in the first 2008 entertainment permit; does not correspond to 15 sq-ft per occupant, for seated dining
9	11 thru 13	Terrace occupancy increased to 47 , from 22, by the first 2008 entertainment permit
10	12 & 13	Zinc Lounge and Sky Deck occupancies over doubled , from 77 to 159 and from 45 to 92, respectively, by the second 2008 entertainment permit

FIRST 2008 ENTERTAINMENT PERMIT SHOWS OCCUPANCIES FROM 2004 BUILDING PERMIT

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

Location: 1221 N Valley- Shade Hotel- Metlox **Approved 2 September 2008**

CONDITIONS OF APPROVAL**Police Department:**

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

Fire Department:

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

Roof Deck - 45 **Same as in 2004 building permit**

Lobby Bar (Zinc Lounge)- 77 **Same as in 2004 building permit**

Patio to south of Zinc Lounge- **47 Increased from 22, Mr Zislis testimony**

Courtyard Area - 200 **Erroneous; does not correspond to 151 patrons, seated dining**

Community Development Department:

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

SECOND 2008 ENTERTAINMENT PERMIT DOUBLED ZINC AND SKYDECK OCCUPANCIES

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

Location: 1221 N Valley- Shade Hotel- Metlox **Approved 19 December 2008**

CONDITIONS OF APPROVAL

Police Department:

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

Fire Department:

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

Roof Deck - 92 **Increased from 45 in first 2008 entertainment permit**
Lobby Bar (Zinc Lounge) - 159 **Increased from 77 in first 2008 entertain. permit**
Patio to south of Zinc Lounge- 47 **Increased from 22, Mr Zislis testimony**
Courtyard Area - 151 **Corrected from 200 in first 2008 Entertainment permit**
Conference Room - 44 **Same as in 2004 building permit**

Community Development Department:

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

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From: Don McPherson
To: [Chris Conaway \(cconaway@citymb.info\)](mailto:Chris Conaway (cconaway@citymb.info)); ["Kathleen Paralusz \(kparalusz@citymb.info\)";](mailto:Kathleen Paralusz (kparalusz@citymb.info)) ["Martha Andreani \(mandreani@citymb.info\)";](mailto:Martha Andreani (mandreani@citymb.info)) [Paul Gross \(pgross@citymb.info\)](mailto:Paul Gross (pgross@citymb.info)); [Steve Ortmann \(sortmann@citymb.info\)](mailto:Steve Ortmann (sortmann@citymb.info))
Cc: [Bruce Moe \(bmoe@citymb.info\)](mailto:Bruce Moe (bmoe@citymb.info)); [Quinn Barrow \(qbarrow@citymb.info\)](mailto:Quinn Barrow (qbarrow@citymb.info)); [Diana Varat \(dvarat@citymb.info\)](mailto:Diana Varat (dvarat@citymb.info)); [Richard Thompson \(rthompson@citymb.info\)](mailto:Richard Thompson (rthompson@citymb.info)); [Laurie Jester \(ljester@citymb.info\)](mailto:Laurie Jester (ljester@citymb.info)); [Nate Hubbard \(natehubz@mac.com\)](mailto:Nate Hubbard (natehubz@mac.com)); [Stephanie Hubbard \(steffhubz@verizon.net\)](mailto:Stephanie Hubbard (steffhubz@verizon.net)); [Wayne Partridge \(wepmako@gte.net\)](mailto:Wayne Partridge (wepmako@gte.net))
Bcc: [Don McPherson \(dmcphersonla@gmail.com\)](mailto:Don McPherson (dmcphersonla@gmail.com))
Subject: Overview of Shade 2014 CUP Entitlements, 2005 CUP Requirements and Mitigation Measures
Date: 20 May, 2014 14:32:00

Planning Commission
City of Manhattan Beach
Via Email

Subject: Overview of 2014 CUP Entitlements, 2005 CUP Requirements and Mitigation Measures for Shade Hotel

Chairman Gross and Commissioners,

During the past five months, I have submitted to you a considerable amount of evidence and analyses, regarding modification of the use permit for Shade Hotel. The attachment summarizes all that information in two pages, supported by a few exhibits, necessary to update the material with information from the April 23 hearing.

With all due respect to the prerogatives of the Planning Commission, I take the liberty to suggest a three-step process, namely:

1. Start with the requirements in the current use permit, Resolution No. PC 05-08 ["2005 CUP"], as approved by the Planning Commission in May 2005;
2. Quantify the new entitlements granted by the proposed resolution ["2014 CUP"]; and,
3. Formulate effective physical and operational mitigation measures that will largely eliminate the disturbances that will result from the increased intensification of use.

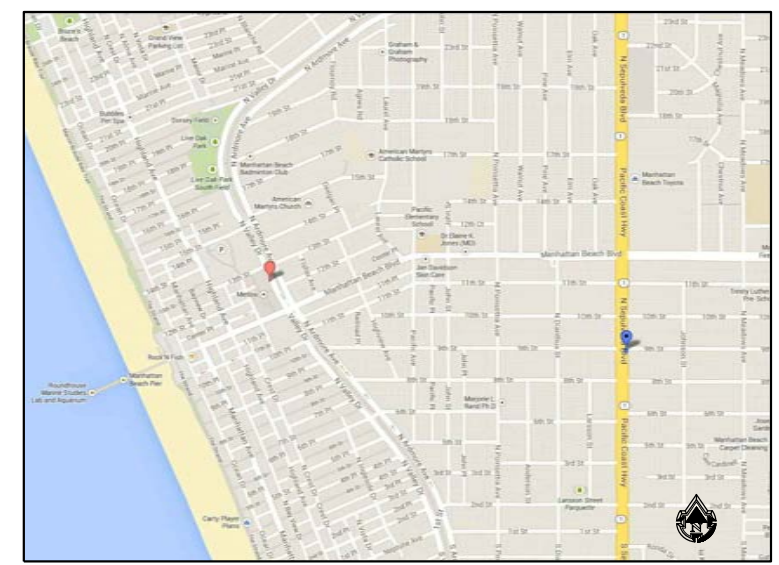
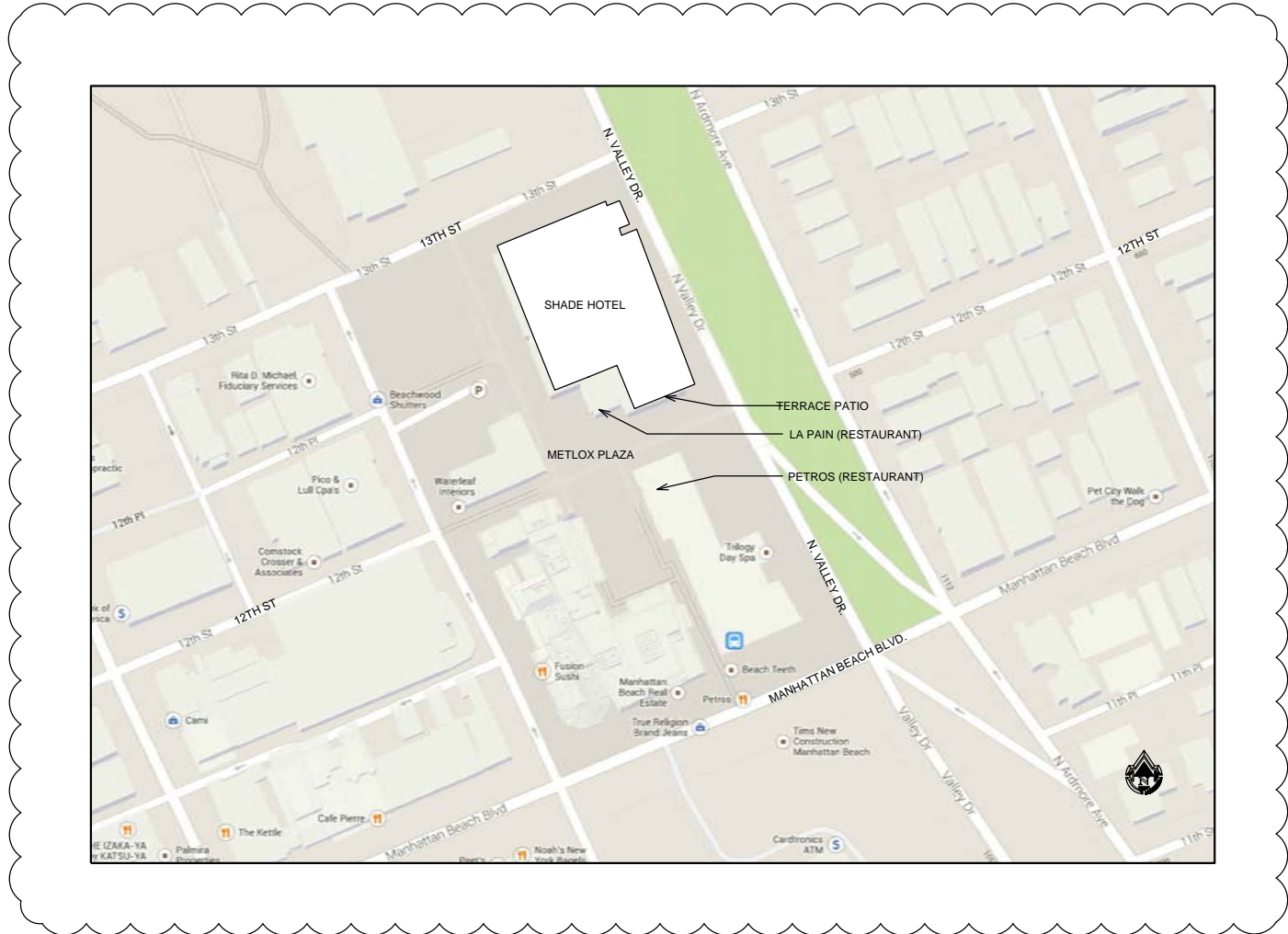
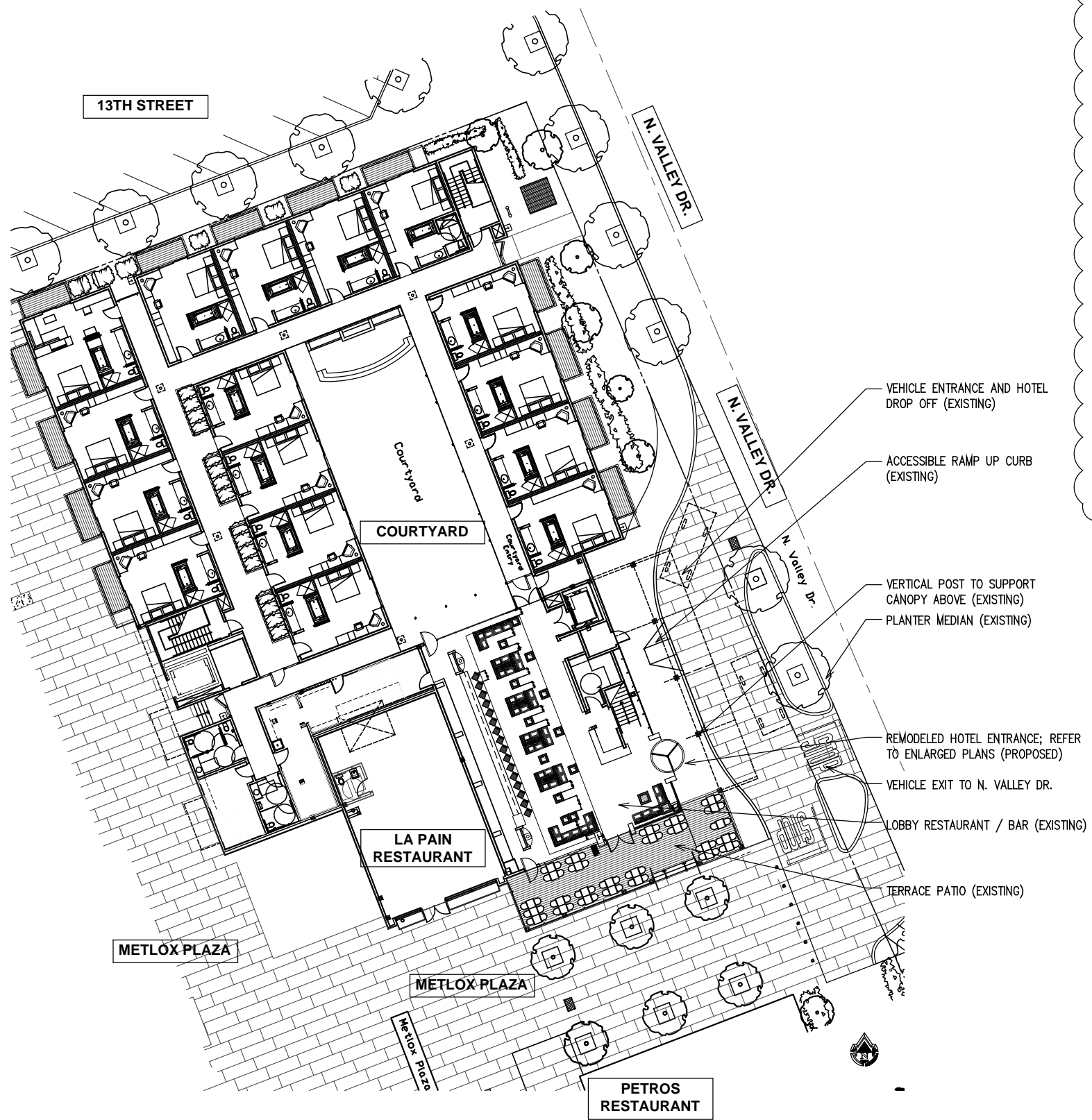
Nobody can determine the absolute noise reduction in dB's, required to suppress levels of music and voice from Shade Hotel, so that the phenomenon of selective hearing does not disturb and annoy the neighbors. Consequently, to neutralize the intensification of use resulting from the new 2014 CUP, the commissioners have at their disposal, only the exercise of common sense, to require effective and practical measures for noise mitigation.

All parties have provided an information overload, in pursuit of our mutual objectives. I would like the opportunity to brief each of you for an hour, on my contributions to this welter of data. Employing a non-advocacy fact-based ground rule, I can efficiently page through the evidentiary records, if that would answer any questions the commissioners might have.

Thanks for listening to us residents, since January 22 of this year,

Don McPherson
1014 1st St, Manhattan Beach
Cell: 310 487 0383
dmcphersonla@gmail.com

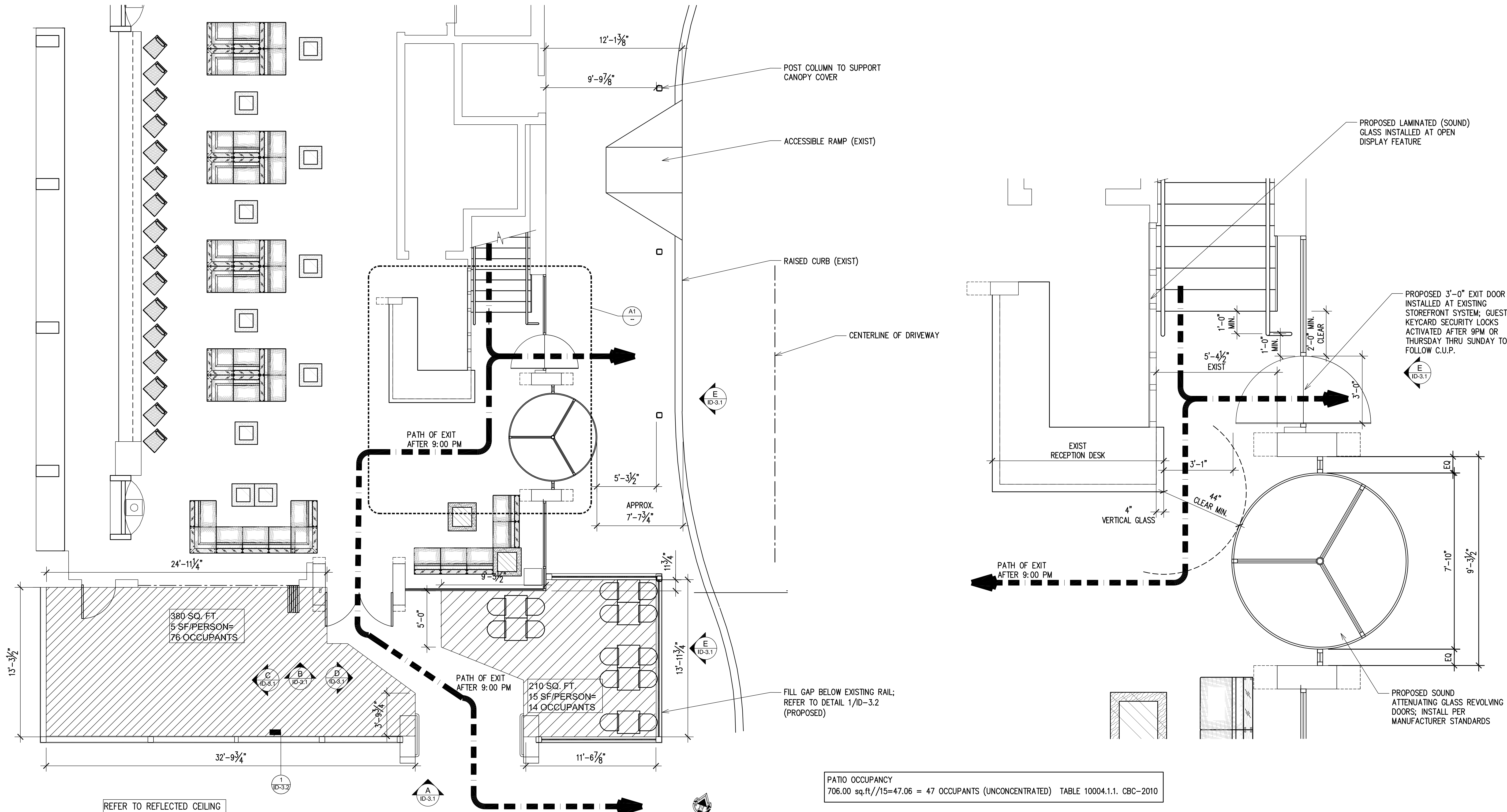
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DRAWINGS INDEX

- ID-1.0 COVER / INDEX / SITE MAP
- ID-1.1 TERRACE PATIO PLAN & ENLARGED ENTRANCE
- ID-2.1 TERRACE PATIO REFLECTED CEILINGS
- ID-2.2 PATIO REFLECTED CEILINGS (LOWEST LEVEL)
- ID-3.1 TERRACE PATIO EXTERIOR ELEVATIONS
- ID-3.2 HOTEL ENTRANCE ELV & PATIO FACADE DETAILS
- ID3.3 HOTEL ENTRANCE DETAIL
- ID-3.4 ACOUSTIC REPORTS
- ID-3.5 MATERIALS ACOUSTICAL DATA
- ID-3.6 MATERIALS ACOUSTICAL & FIRE DATA

**ATTACHMENT D
PC MTG 5-28-14**



13'-3 1/2"

24'-11 1/4"

380 SQ. FT.
5 SF/PERSON =
76 OCCUPANTS

32'-9 3/4"

5'-0"

210 SQ. FT.
15 SF/PERSON =
14 OCCUPANTS

11'-6 7/8"

13'-11 3/4"

5'-3 1/2"

APPROX.
7'-7 3/4"

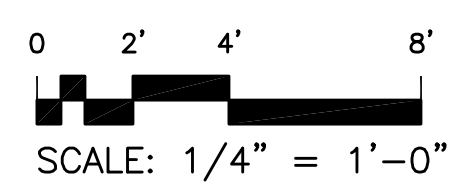
PATIO OCCUPANCY
706.00 sq.ft./15=47.06 = 47 OCCUPANTS (UNCONCENTRATED) TABLE 10004.1.1. CBC-2010

REFER TO REFLECTED CEILING PLAN (ID-2.1) FOR MEASURES TAKEN TO IMPROVE ACOUSTICS ON PATIO AREA

CURRENT OCCUPANCY 47
PATIO OCCUPANCY (PROPOSED)
380 SQ FT / 5 = 76 (STANDING)
210 SQ FT / 15 = 14 (UNCONCENTRATED)
TOTAL OCCUPANT LOAD = 90 OCCUPANTS
TABLE 10004.1.1. CBC-2010

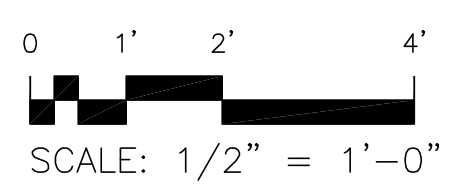
A LEVEL 1 FLOORPLAN PLAN

SCALE: 1/4" = 1'-0"
HALF SCALE: 1/8" = 1'-00"



A1 LEVEL 1 FLOORPLAN ENLARGED PLAN

SCALE: 1/2" = 1'-0"
HALF SCALE: 1/4" = 1'-00"

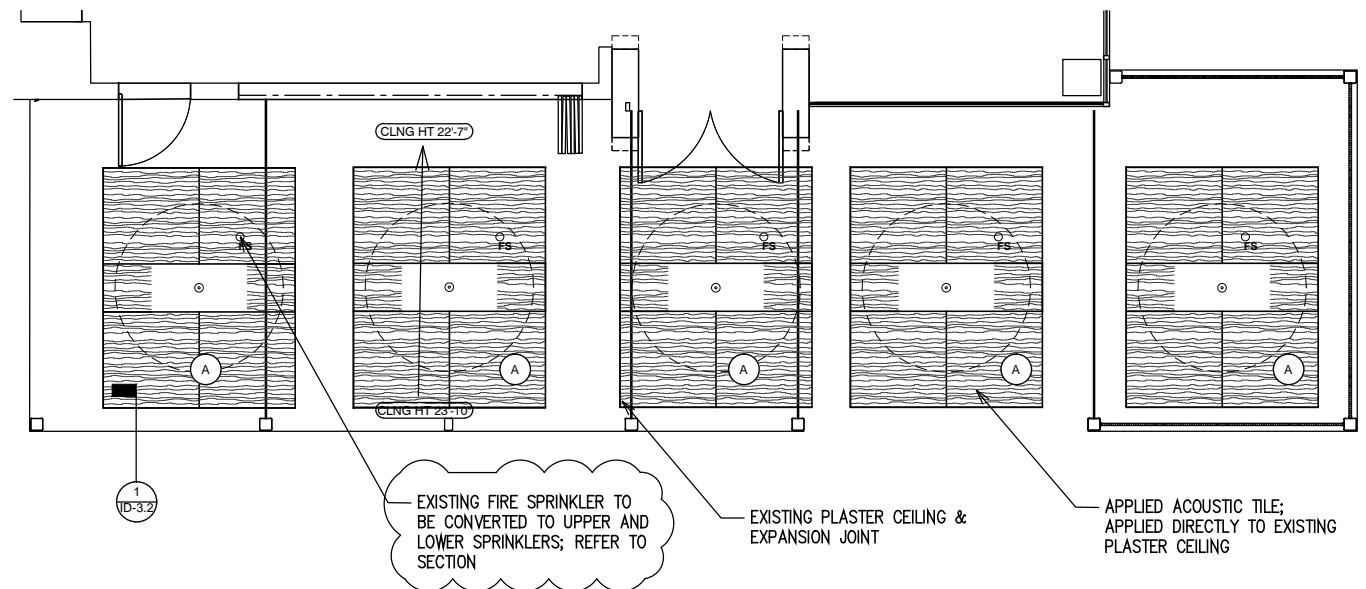


SHADE MANHATTAN BEACH
1221 N Valley Drive
Manhattan Beach, California 90266
PROJECT #1306

DATE:
2/4/2014

SCALE:
1/4" = 1'-00"

SHEET NAME:
ID-1.1
PLAN



GENERAL NOTES / MATERIAL SPECIFICATION

- (A) ACOUSTIC ENTERPRISES INC.: FIBERGLASS ACOUSTIC PANELS; 1" THICK PATTERN 821 SAND DUNE WITH QUARRY BLUE FABRIC STYLE 2335 OR SIMILAR
- (B) FIBERGLASS ACOUSTIC INSULATION IN PERFORATED METAL BASKET CLOUD SUSPENDED FROM UPPER PLASTER CEILING SEE ID-3.5 FOR REFERENCE
- (C) PARASOLIEL ALUMINUM PANEL Nukubalavu 1/8" ALUMINUM NATURAL FINISH OR SIMILAR
- (D) LUMAsite RESIN / FIBERGLASS PANEL IN CRYSTAL II COLOR OR SIMILAR SEE ID-3.6 FOR REFERENCE.

* CONFIRM ALL MATERIAL SELECTIONS WITH OWNER PRIOR TO INSTALL

* FIELD VERIFY DIMENSIONS PRIOR TO FABRICATION

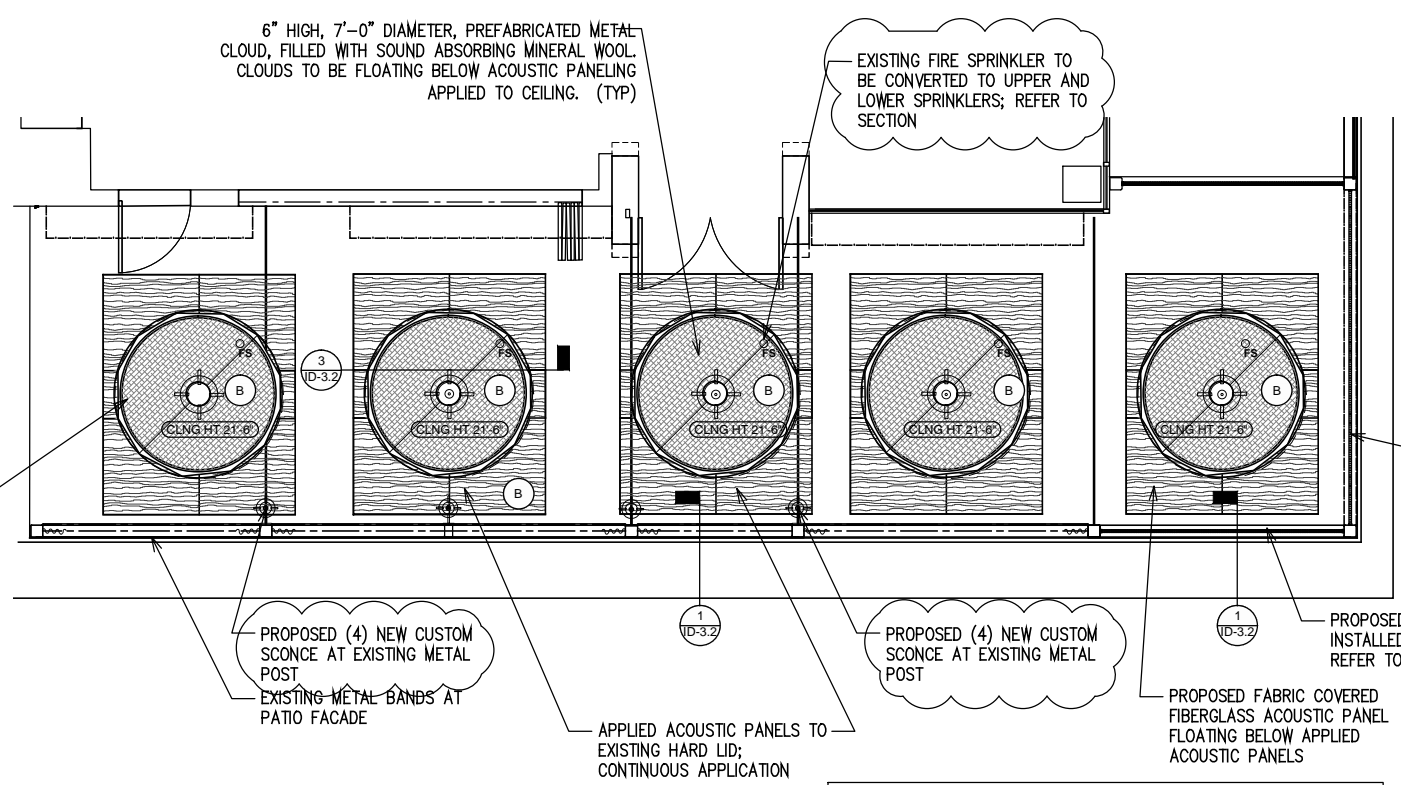
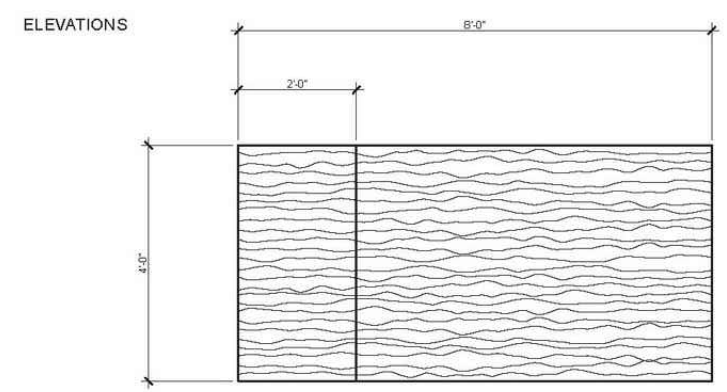
* DRAWINGS ARE FOR DESIGN INTENT ONLY; REFER TO ENGINEERED / FABRICATION DRAWINGS FOR ALL FIXING SPECIFICATION

C1 LEVEL 1 PATIO RCP PATIO UPPER CEILING
SCALE: 1/4" = 1'-0"
HALF SCALE: 1/8" = 1'-00"

TOTAL CEILING AREA:
706 SQFT.

ACOUSTIC PANEL APPLIED TO HARD CEILING:
360 SQFT. (51%)

(20) 4'-0" X 4'-0" PANELS
(10) 2'-0" X 2'-0" PANELS

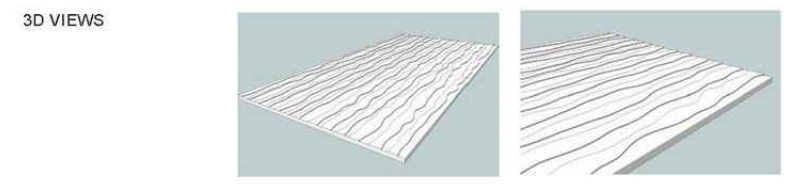
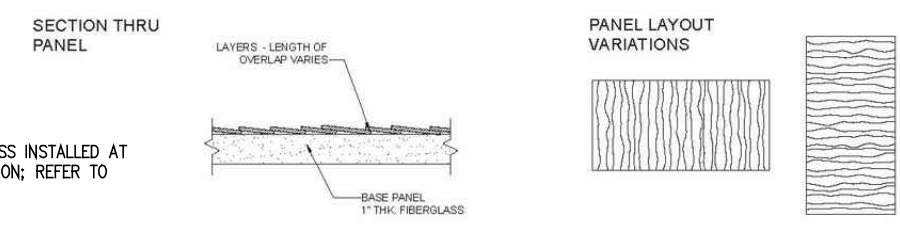


C2 MID LEVEL CEILING PATIO MID LEVEL CEILING
SCALE: 1/4" = 1'-0"
HALF SCALE: 1/8" = 1'-00"

TOTAL CEILING AREA:
706 SQFT.

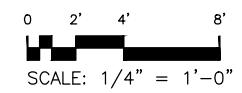
ACOUSTIC PANEL APPLIED IN FLOATING CLOUDS:
192 SQFT. (27%)

7" DIA. CLOUD = 38.6 SQFT EACH
(5) 7" DIA. CLOUDS = 192 SQFT.

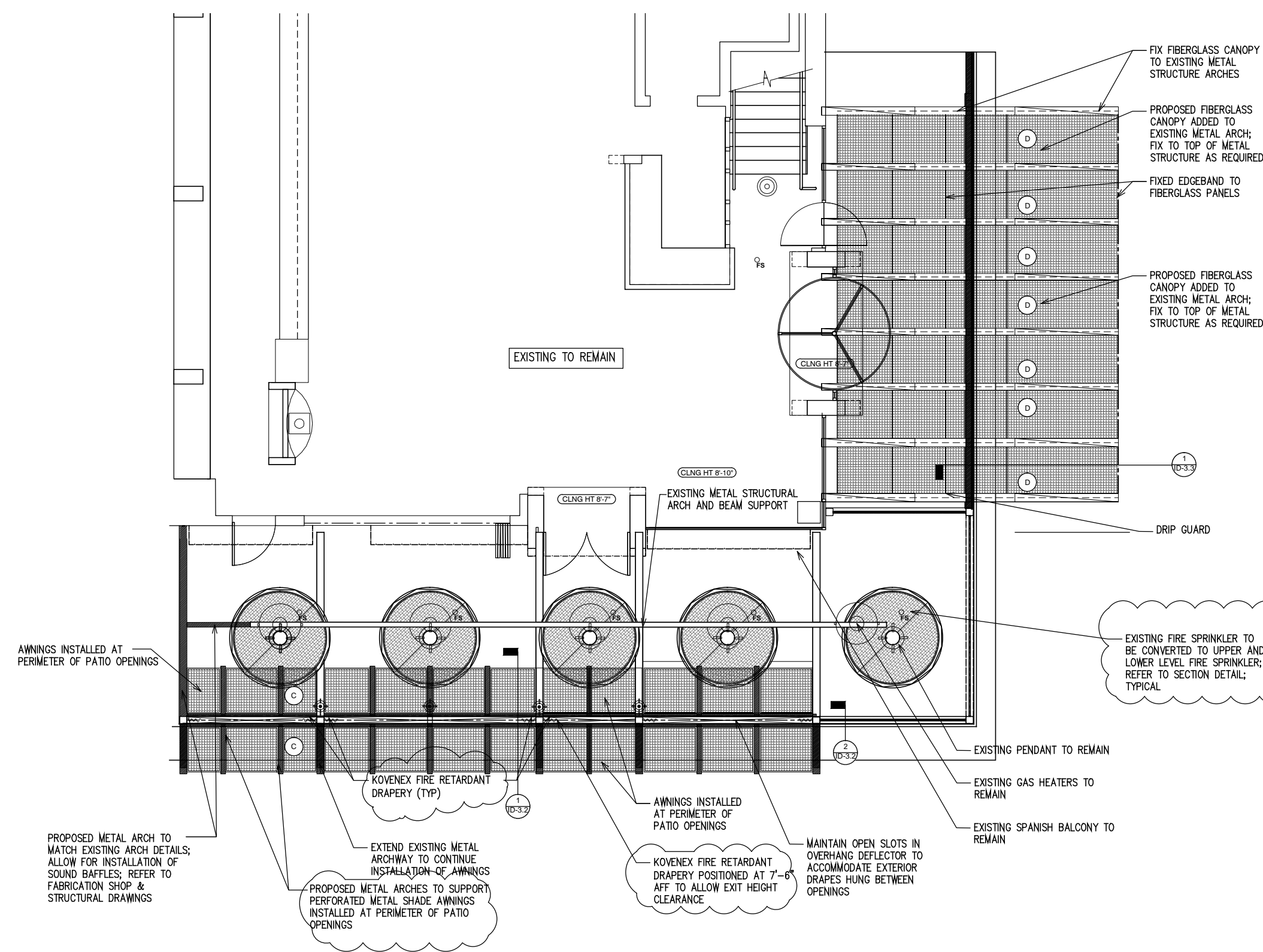


Custom design and sizing available
Customer specific designs can be created
NRC (Noise Reduction Coefficient) = 0.85
All materials utilized are Class (A)

921
Sand Dunes

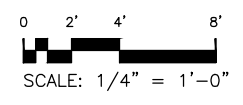


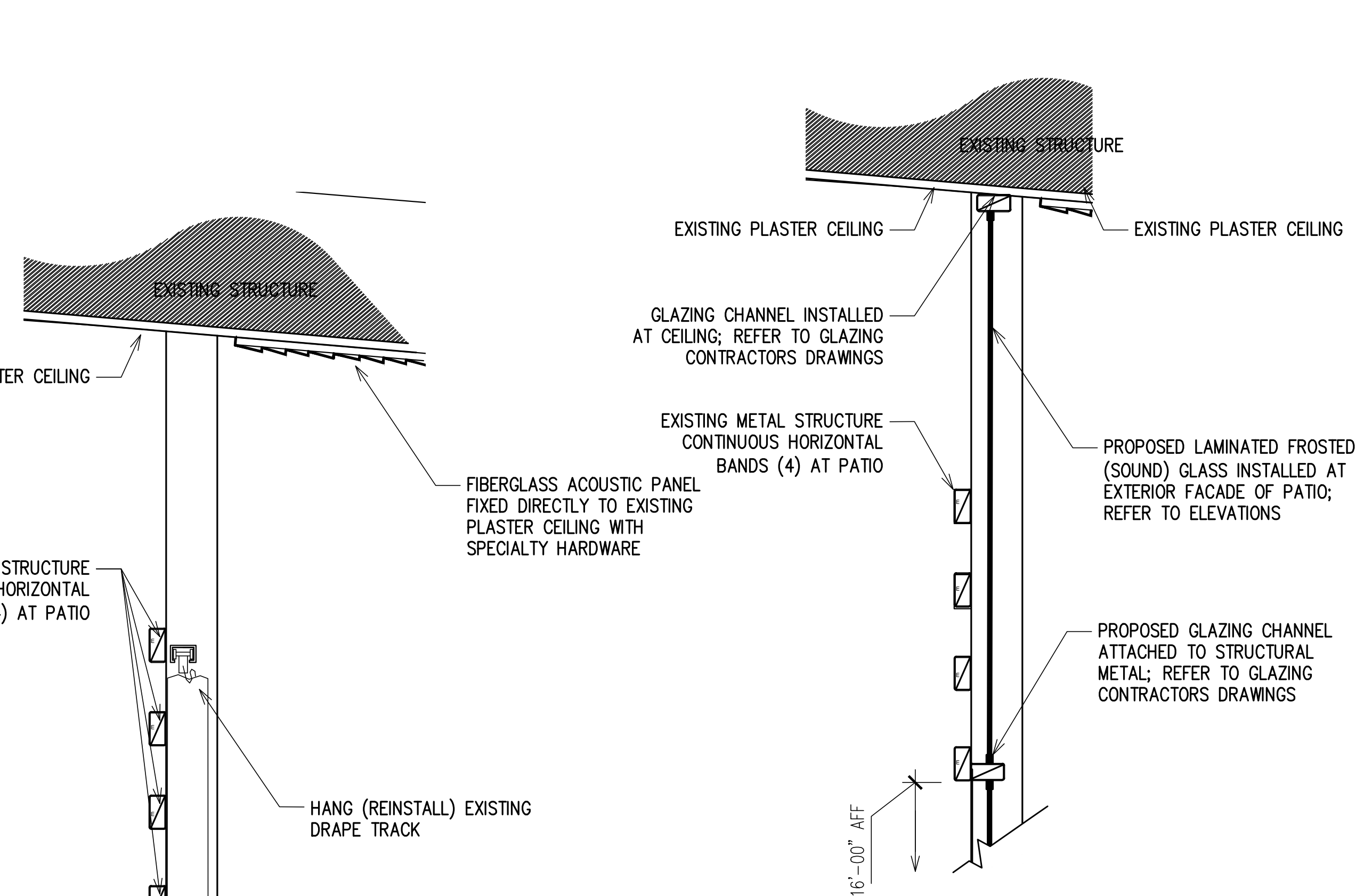
- GENERAL NOTES / MATERIAL SPECIFICATION**
- (A) ACOUSTIC ENTERPRISES INC.: FIBERGLASS ACOUSTIC PANELS; 1" THICK PATTERN 821 SAND DUNE WITH QUARRY BLUE FABRIC STYLE 2335 OR SIMILAR
 - (B) FIBERGLASS ACOUSTIC INSULATION IN PERFORATED METAL BASKET CLOUD SUSPENDED FROM UPPER PLASTER CEILING SEE ID-3.5 FOR REFERENCE
 - (C) PARASOLIEL ALUMINUM PANEL Nukubalavu 1/8" ALUMINUM NATURAL FINISH OR SIMILAR
 - (D) LUMAsite RESIN / FIBERGLASS PANEL IN CRYSTAL II COLOR OR SIMILAR SEE ID-3.6 FOR REFERENCE.
- * CONFIRM ALL MATERIAL SELECTIONS WITH OWNER PRIOR TO INSTALL
- * FIELD VERIFY DIMENSIONS PRIOR TO FABRICATION
- * DRAWINGS ARE FOR DESIGN INTENT ONLY; REFER TO ENGINEERED / FABRICATION DRAWINGS FOR ALL FIXING SPECIFICATION



**C3 LEVEL 1 PATIO RCP
LOWER PATIO CEILING**

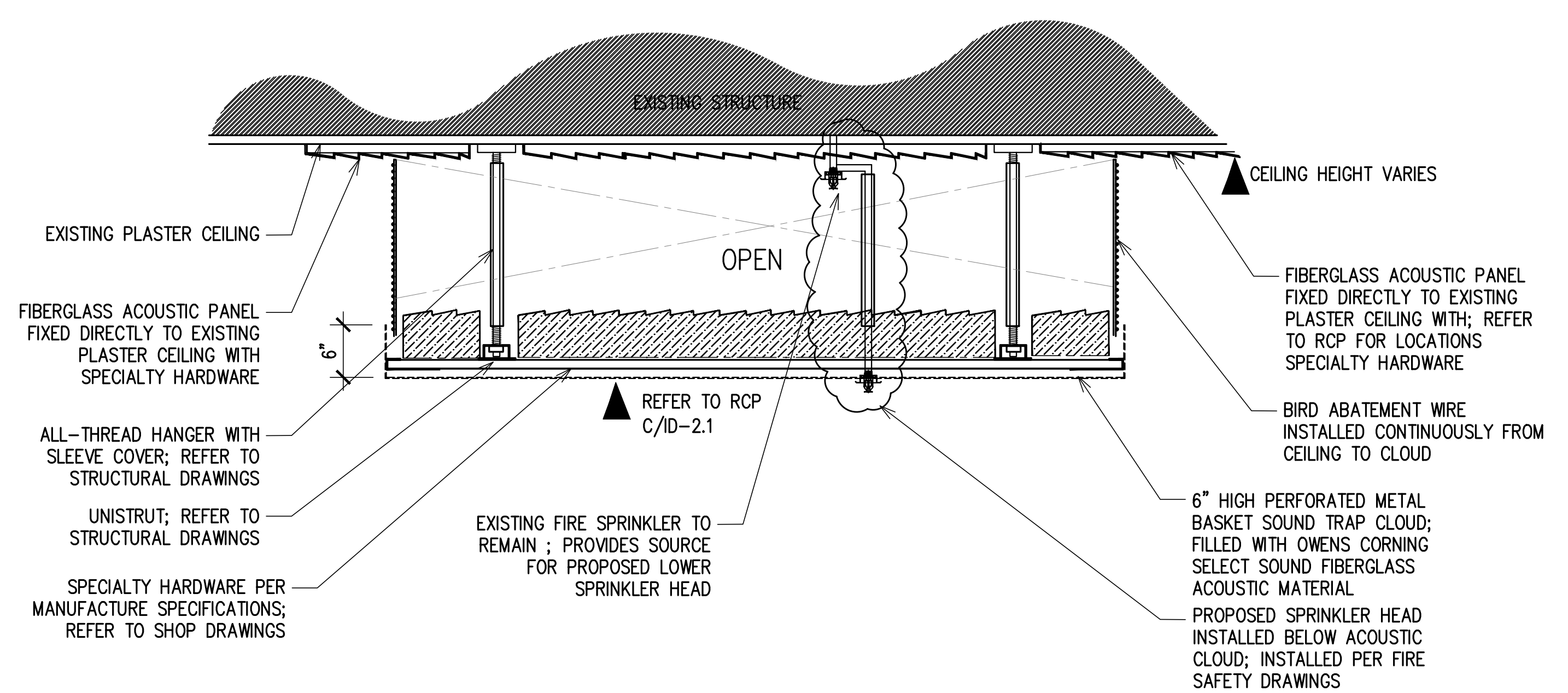
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HALF SCALE: 1/8" = 1'-00"





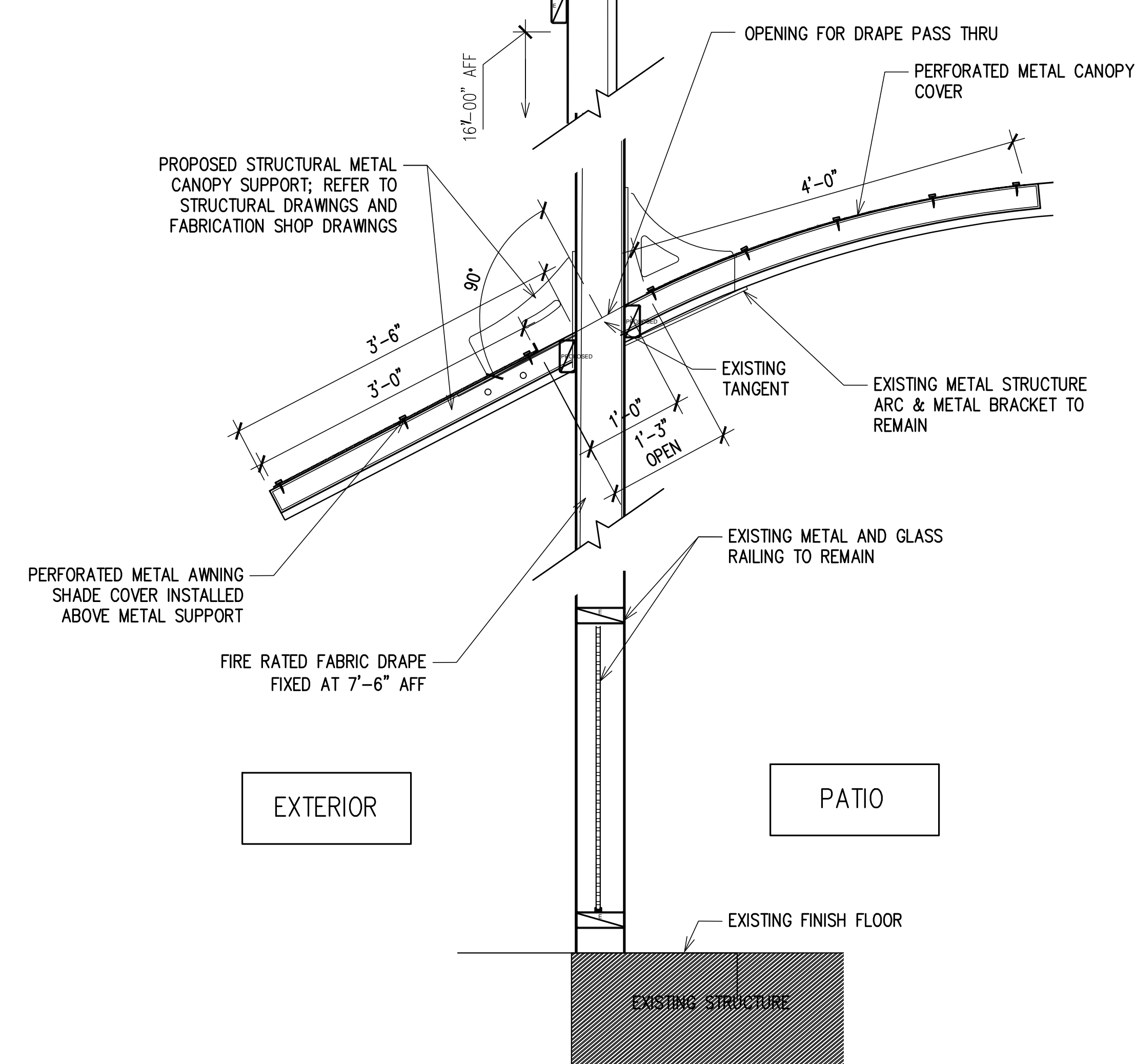
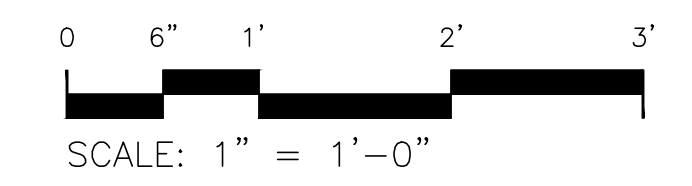
2 DETAIL AT PATIO GLASS EXTERIOR
DETAIL SECTION

SCALE: 1" = 1'-0"
HALF SCALE: 1/2" = 1'-0"



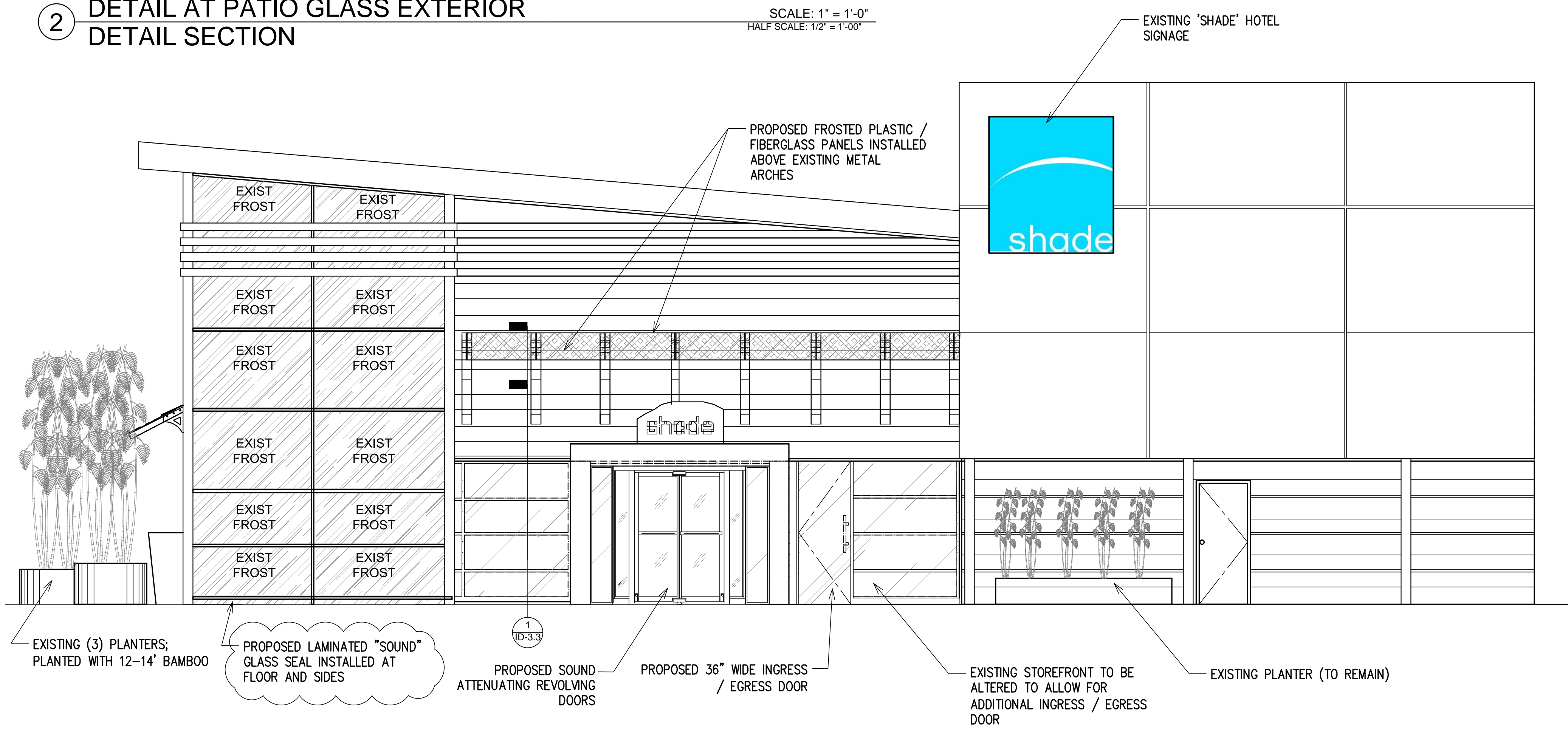
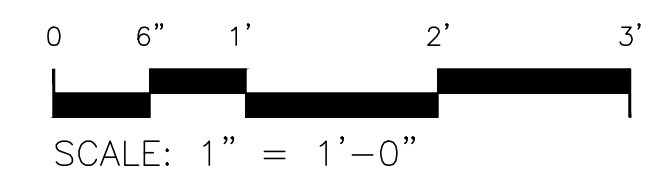
3 DETAIL OF ACOUSTIC FLOATING CLOUDS
SECTION DETAIL

SCALE: 1" = 1'-0"
HALF SCALE: 1/2" = 1'-0"



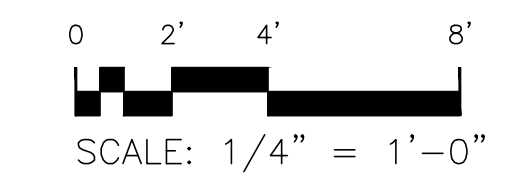
1 ACOUSTIC IMPROVEMENTS AT PATIO FACADE
SECTION DETAIL

SCALE: 1" = 1'-0"
HALF SCALE: 1/2" = 1'-0"



E EXTERIOR EAST ELEVATION
HOTEL ENTRANCE

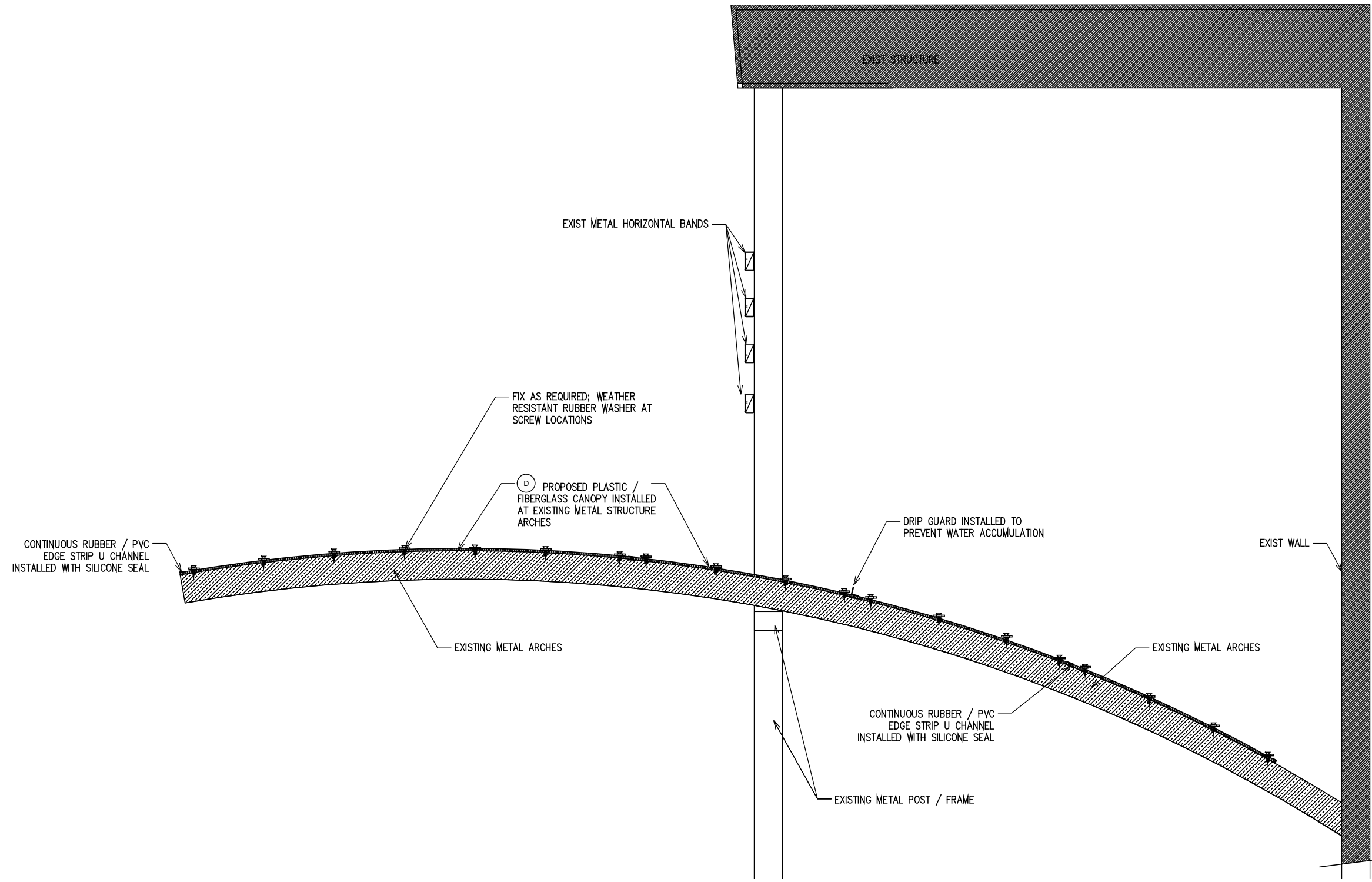
SCALE: 1/4" = 1'-0"
HALF SCALE: 1/8" = 1'-0"



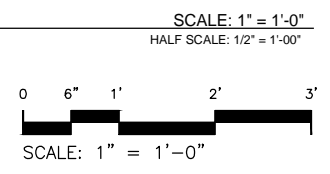
SCALE: 1/4" = 1'-0"

GENERAL NOTES / MATERIAL SPECIFICATION

- (A) ACOUSTIC ENTERPRISES INC.: FIBERGLASS ACOUSTIC PANELS; 1" THICK PATTERN 821 SAND DUNE WITH QUARRY BLUE FABRIC STYLE 2335 OR SIMILAR
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 - (D) LUMAsite RESIN / FIBERGLASS PANEL IN CRYSTAL II COLOR OR SIMILAR SEE ID-3.6 FOR REFERENCE.
- * CONFIRM ALL MATERIAL SELECTIONS WITH OWNER PRIOR TO INSTALL
- * FIELD VERIFY DIMENSIONS PRIOR TO FABRICATION
- * DRAWINGS ARE FOR DESIGN INTENT ONLY; REFER TO ENGINEERED / FABRICATION DRAWINGS FOR ALL FIXING SPECIFICATION



1 DETAIL AT HOTEL ENTRY CEILING SECTION DETAIL



Dear Mr. Zislis,

We have completed the noise mitigation evaluation for the Shade Hotel, located at 1221 N Valley Dr in the City of Manhattan Beach. The evaluation assessed the noise mitigation measures outlined in the architectural plans by Drasin Design dated December 10, 2013.

This evaluation was carried out to supplement our previous noise analyses of the hotel performed in 2009 and 2010. Our previous analyses assessed the noise levels of the various noise-producing areas of the hotel and the performance of noise mitigation measures that could be applied to these areas. Three main sources of noise were identified. These were the front entrance, the rooftop deck and the south terrace. This analysis considers the noise levels of the front entrance and south terrace only. A conclusion of our previous study was that noise levels would not be significantly reduced whenever there is activity on the rooftop deck due to the significant contribution to the overall noise levels from this source and the infeasibility of applying mitigation measures to this area. This analysis therefore only considers the condition when there is noise produced on the terrace and inside the Zinc Lounge but there is no significant noise produced the deck.

This report provides our assessment of the following mitigation measures:

- A revolving door in place of the existing front entrance doors and a new glass entrance door located to the north of the revolving door. The new entrance door would be used for disabled access only.
- A new glass panel system extending from the floor to the ceiling, partially enclosing the south terrace area east of the existing entrance. Curtains will partially enclose the area above and west of the entrance. All gaps around the existing glass panel system at the terrace area would be filled. Acoustically absorptive panels would be installed on the ceiling of the terrace area.

This report provides noise modeling results for unmitigated and mitigated scenarios with the above measures implemented. The sound levels used in the models are the same as those used in our original reports. Measurements were made at the hotel specifically for this analysis and it was noted that the noise levels during our visit were lower than had previously been measured in 2009. However, the use of the original 2009 modeling data permits direct comparison of the noise contour maps in this report with those produced for our previous studies and therefore it is possible to directly compare the effectiveness of the various mitigation measures assessed in each report.

This report presents calibrated unmitigated noise maps and predicted unmitigated noise maps. In addition, 'noise difference maps' are presented, which are calculated by subtracting the mitigated noise level from the unmitigated level at every point over the mapped area. A change in noise level of 5 dB is considered 'clearly noticeable' and this is the minimum value by that must be achieved for the noise reduction to be considered significant.

Front Entrance Noise (Figures 1 to 3)

The unmitigated noise map for the front entrance noise only is presented in Figure 1. This noise map indicates that the properties most affected by the entrance noise are those located directly opposite the entrance between 12th Street and 13th Street, and just south of 12th Street. The mitigated noise map is provided in Figure 2. The difference map in Figure 3 shows that the redesigned front entrance will reduce the noise by up to 5 dB at the residences. Therefore, the redesigned entrance can be considered an effective mitigation measure. In addition to reducing the average noise level, the revolving door will lessen the number of instances of short-duration increases in noise level that occur when the existing entrance doors are opened. Short duration increases in noise would occur when the new glass disabled access door is opened, which is expected to be an infrequent occurrence.

South Terrace Noise (Figures 4 to 6)

The unmitigated noise map for the terrace only is presented in Figure 4. This noise map shows the original unmitigated terrace scenario provided in our 2009 report with the curtains open. The noise map and difference map for the mitigated design are provided in Figures 5 and 6. The noise maps indicate that the south terrace's mitigation measures will reduce noise from this source by up to 7 dB at the residences. Therefore the mitigation measures proposed for the south terrace can be considered effective.

Combined Noise Levels (Figures 7 to 9)

Noise maps showing the unmitigated and mitigated combined noise levels of the terrace and front entrance noise are provided in Figures 7 and 8 respectively. The noise difference map in Figure 9 shows that the overall reduction for the combined mitigated scenario is up to 6 dB at the residences. It is noted that the noise reduction at the residences south of 12th Street is better than at the residences on the north side. This is due to the fact that the properties on the south side of this street are exposed to more noise from the terrace than from the front entrance and the mitigation measures applied to the terrace are more effective than those applied to the front entrance.

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

Recommendations

The following recommendations are provided to ensure the mitigation measures are implemented as effectively as possible:

1. The revolving door should have a Sound Transmission Class (STC) rating of at least 27 (doors manufactured by the International Revolving Door Company have STC ratings of 29 to 33).
2. The proposed 36" wide ingress/egress door should be a well-sealed and weather stripped assembly that provides an STC rating of at least 27.
3. The new glass and metal frame system should be well sealed without any gaps or openings. The openings around the new frame and the existing frame system should be sealed with a material that provides a surface density at least that of the existing glass.
4. The acoustically absorptive material to be installed on the terrace ceiling should have a Noise Reduction Coefficient (NRC) of at least 0.70.

Please contact the undersigned with any questions or comments.

Very truly yours,

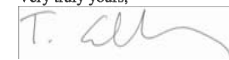


Figure 1. Unmitigated Average Noise Level at 1st Floor - Front Entrance Only

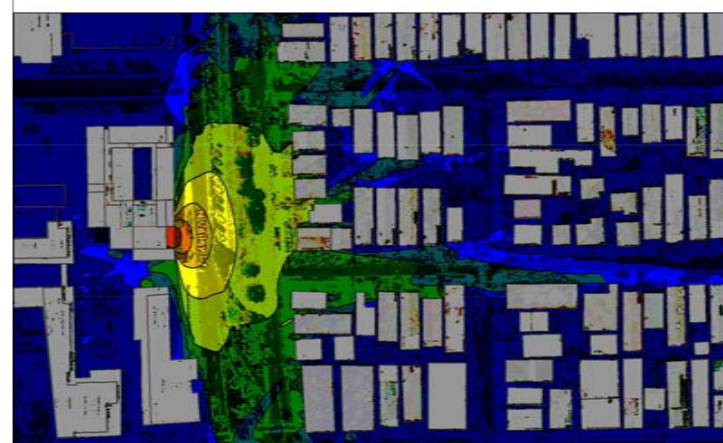


Figure 2. Mitigated Average Noise Level at 1st Floor - Front Entrance Only

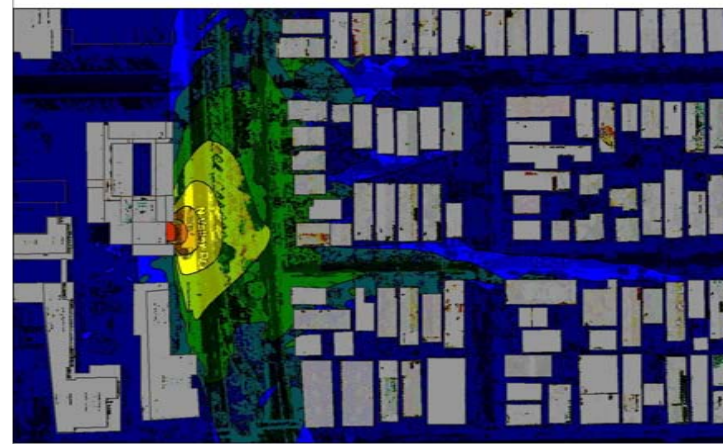


Figure 3. Noise Difference Map - Reduction of Front Entrance Noise at 1st Floor



Figure 4. Unmitigated Average Noise Level at 1st Floor - South Terrace Only

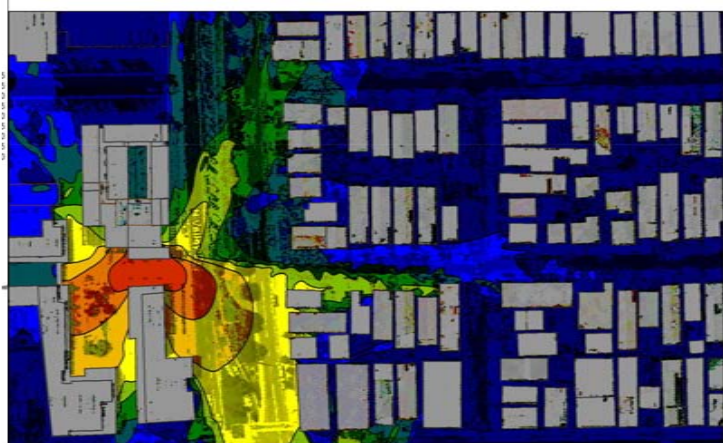


Figure 5. Mitigated Average Noise Level at 1st Floor - South Terrace Only

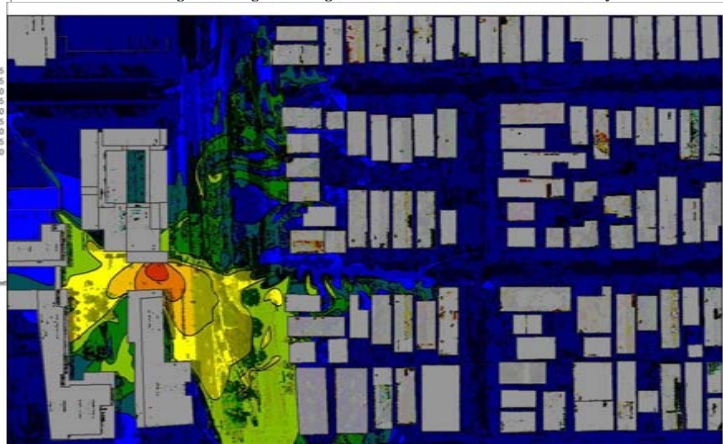


Figure 6. Noise Difference Map - Reduction of South Terrace Noise at 1st Floor

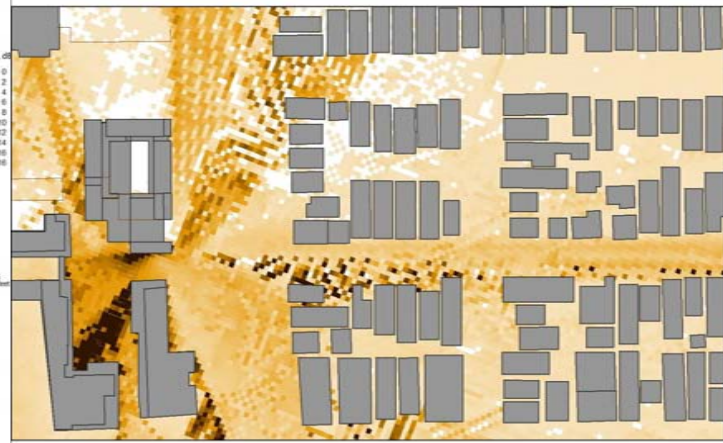


Figure 7. Unmitigated Average Noise Level at 1st Floor - Combined Front Entrance and South Terrace Noise

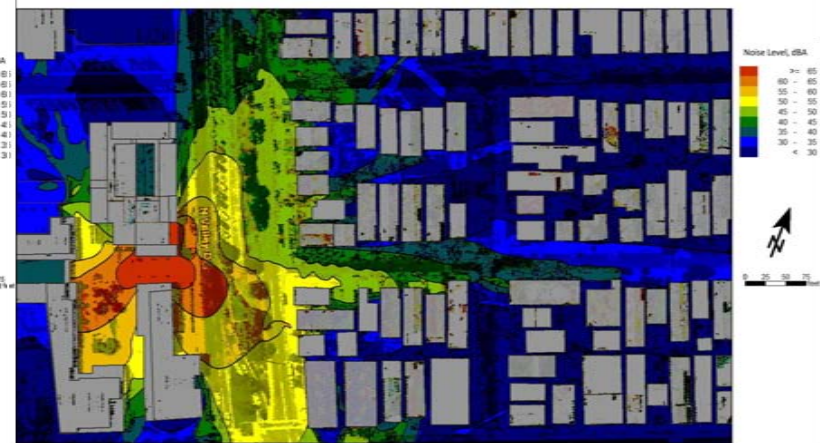


Figure 8. Mitigated Average Noise Level at 1st Floor - Combined Front Entrance and South Terrace Noise

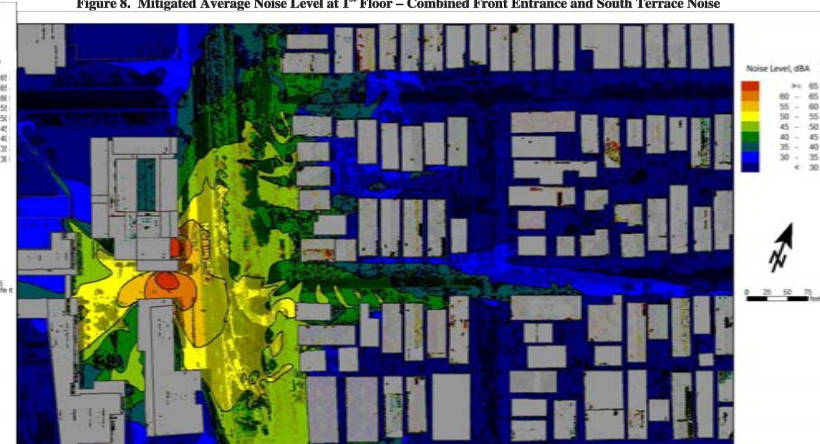
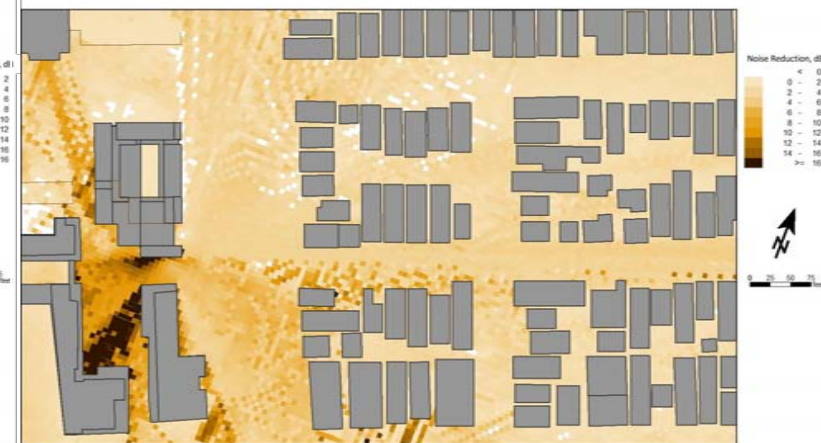
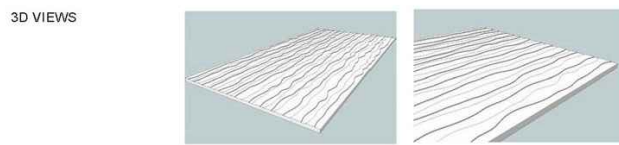
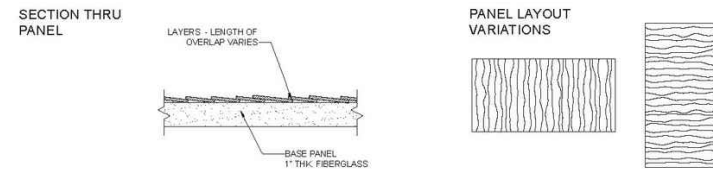
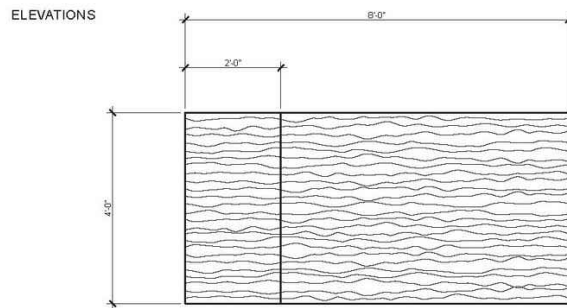


Figure 9. Noise Difference Map - Reduction of Combined Front Entrance and South Terrace Noise at 1st Floor





Custom design and sizing available
 Customer specific designs can be created
 NRC (Noise Reduction Coefficient) = 0.85
 All materials utilized are Class (A)

921
 Sand Dunes

ACOUSTIC ENTERPRISES INC.
 Patented Products and Services

Dimensional Acoustic Panels



Dimensional Acoustic Panels (DAP) combine 3-dimensional designs with fabric-covered, sound absorbing acoustical panels to create a dynamic, beautiful product. Dimensional panels capture beauty and sound control for every environment where sound performance is necessary.

Standard size for DAP-1" or DAP-2" panels are 4'x8' (designs are formatted for this size). Custom sizes or smaller panels may require pattern resizing.

Custom designs require submittal of drawings.

SOUND ABSORPTION

Hz	125	250	500	1000	2000	4000	N.R.C.
DAP-1"	.02	.37	.87	1.09	1.01	1.00	.85
DAP-2"	.21	.78	1.04	1.07	1.06	1.04	1.05

PANEL PATTERNS

Please visit our website at www.dimensionalacoustics.com for all current patterns and additional information.

CORE
 6-7 pcf fiberglass
 1" or 2" thickness

SIZES
 4' x 8' standard
 Custom sizes as requested
 Designs formatted for standard size may require pattern resizing.

MOUNTING
 Back mounted with screw-in clips secured to substrate with Rotofast anchors, "Z" Clips, Impaling Clips or Adhesive, based on specifications.

FINISH
 Standard fabric:
 Guilford of Maine, Anchorage 2335
 Other panel fabrics approved upon submittal

EDGES
 Standard = Square
 Hardened
 Half Bevel (x2 sides or x4 sides) or
 Quarter Bevel (x2 sides or x4 sides)

FIRE RATING
 ASTM E84 Class "A" materials

Beautiful Sound Control

8006 Sunrise Circle, Frederick, CO 80516-9428 888-287-4183 303-774-9992 fax 303-774-0081
www.dimensionalacoustics.com

ACOUSTIC ENTERPRISES INC.
 Patented Products and Services

INSTALLATION INSTRUCTIONS

DIMENSIONAL AND FLAT WALL PANELS:
 Particular care must be taken not to bend panels during installation, especially longer panels, as it could create bubbles in the fabric. Keeping panels in a vertical, straight upright position is the safest and required way to handle the panels.

When mounting Rotofast panel anchors or other types of hardware, please make sure you lay the panels on a clean flat surface free from dirt or debris so panels do not get soiled, punctured or damaged in any way. Never stand panels on their corners as it could cause crushing and de-laminate the material from the corner of the panel. The fiberglass core is a soft material that can be dented if proper care is not used when handling.

Please keep pencils, markers, liquid nails, knife blades and other such tools away from the face of the panels you are installing.

BAFFLES:
 Baffles come with hardware already installed; it is a matter of hanging them in your designated space. Please use the same care instructions as the wall panels.

CLOUDS:
 We make various types and configurations of clouds. Each type of cloud will come with its own type of assembly and installation instructions. For two-piece clouds lay both parts on flat, smooth, clean surface. "U" channel will be labeled A-B, C-D, E-F to cross over to each half. Match up to inserted Rotofast anchors that are also marked A-B, C-D, E-F. Gently tighten screws thru the "U" channel to hold both halves into place. Hang cloud from holes drilled in ends of each 3' cross piece. Please use the same care instructions as the wall panels.

ROTOFAST ANCHORS:
 Remove panels from the crate. Lie panels face-down on a clean or covered work surface. Follow the instruction sheet that is provided in the package of Rotofast anchors. It is important that you screw the anchors in the back of the fiberglass panel until the flat part of the anchor is flush to the panel. If you screw the anchor in too far (especially in a 1" panel) you will create a bulge in the face of the panel. Never screw anchors into the fabric or material that is wrapped around the back of the panels, as it can delaminate the fabric from the corners and edges of the panel.

Use Acoustic Enterprises Inc. placement recommendation sheet included with panel order for quantity and anchor location on panels and clouds.

Using Rotofast Cloud Anchors:
 Insert loop into flat side of anchor until it snaps into locked position. Using the loop as a handle, screw clouds/anchor into fiberglass back.

Notes:
 If cloud has a perforated white vinyl back (used for white light reflection), cut a small slot in vinyl to start anchor in.

When installing the screw with the black ratchet into either the white screw anchor or the wall with the screw only, leave the ratchet slightly loose for easier alignment. Each Roto-fast anchor will hold up to 43 lbs. Each square foot of 7" panel weighs approximately 1/2 lb.

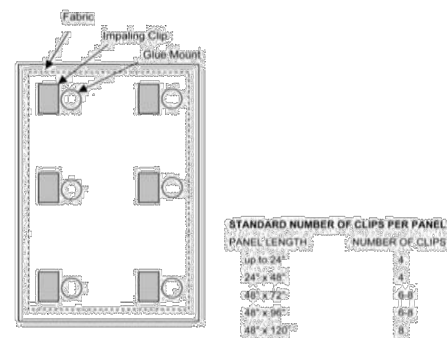
Roto-fast anchors are used for easy installations of permanently mounted panels. If the white wall anchors are installed, and the black ratchet is screwed into it, upon removal the drywall will be torn. Semi-permanent installation can be achieved by not using the white wall anchor.

Panels can be removed, with a carpenter square by inserting the short side behind the panel, and the long side as a handle. Once panels are removed, and channel locks can be used to unscrew the yellow anchor, then the ratchet can be pushed thru. All the parts can be removed and reused, for reinstallation of the panel.

ACOUSTIC ENTERPRISES INC.
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INSTALLATION INSTRUCTIONS

NOTE:
 A flat board or plywood piece should be used on the face of the acoustical panel to make sure that pressure necessary to push panel onto the clip, does not crease or wrinkle the facing.

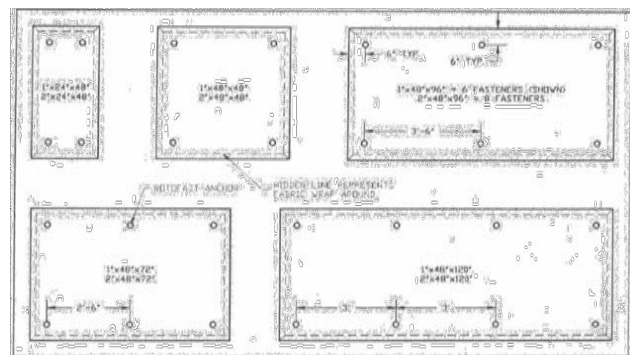


If you should have any questions or concerns about installing your new custom products, please call your project coordinator.

8006 Sunrise Circle, Frederick, CO 80516-9428 888-287-4183 303-774-9992 303-774-0081
www.reskin.com

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INSTALLATION INSTRUCTIONS



Using "Z" Clips:
 Panels are fabricated with a line across the width. Resin hardened spots are poured across the line so the center of the "Z" clip can be installed on site on the line. The installer can mark the wall with the same measurement from the panel, and the "Z" bar, or "Z" clips can be installed for the desired panel location.

"Z" bar comes in six foot lengths or 2 each of the 2" "Z" clips can be used on both panel and wall.

Using Impaling Clips:
 Clips should be installed using the Acoustic Enterprises Inc. placement recommendation sheet included with each panel order.

Mounting on drywall can be done with screws only or with screws and adhesive. Mounting on concrete or masonry with adhesive should be done ahead of installation time for maximum strength.

If the wall panels are not required to be removable, the easiest method of installation is Impaling Clips.

- Impaling clips are shipped from the factory with the panels and should be screwed into the wall where the panels are to be installed. Care should be taken to screw the impaling clips into a stud when possible and to space the clips so that they will be evenly spaced on the back of the panel.
- The back of the wall panel should be covered with a construction adhesive and placed onto the wall in the desired location.
- The impaling clips will hold the panel in place while the adhesive sets.

PART 1 ACOUSTICAL WALL TREATMENT – Section 09840

PART 2 GENERAL

- 2.1 SECTION INCLUDES:**
- 2.1.1 Dimensional Acoustic Wall Panel
 Patent Pending Dimensional System
- 2.2 REFERENCES**
- 2.2.1 ASTM C 423 – Standard Test Method for Sound Absorption and Sound Absorption Coefficients by the Reverberation Room Method; 2000.
 - 2.2.2 ASTM E 84 – Standard Test Method for Surface Burning Characteristics of Building Materials; 2000a.
- 2.3 PERFORMANCE REQUIREMENTS**
- 2.3.1 Acoustical Absorption: Perform testing in accordance with ASTM C 423, Type A mounting method unless otherwise specified.
 - 2.3.2 Flame Spread Rating: Provide all components with Class A flame spread rating when tested in accordance with ASTM E 84, unless otherwise specified.
- 2.4 SUBMITTALS**
- 2.4.1 Submit under provisions of Section 01300
 - 2.4.2 Product Data: Manufacturer's data sheets on each product to be used, including:
 - 2.4.2.1 Preparation instructions and recommendations
 - 2.4.2.2 Storage and handling requirements and recommendations
 - 2.4.2.3 Installation methods
 - 2.4.2.4 Independent testing agency test reports
 - 2.4.2.5 Selection Samples: For each product specified, two complete sets of color samples representing manufacturer's full range of available colors and patterns.
 - 2.4.2.6 Verification Samples: For each product specified, two samples, minimum size 16 inches (150 mm) square, representing actual product, color and patterns.
- 2.5 QUALITY ASSURANCE**
- 2.5.1 Manufacturer Qualifications: Minimum 10 years of experience in producing acoustical products of the types specified herein.
 - 2.5.2 Installer Qualifications: Acceptable to the manufacturer of the acoustical products being installed.
 - 2.5.3 Mock-Up: Provide a mock-up for evaluation of installed appearance
 - 2.5.3.1 Install acoustical products in areas designated by Architect or Designer.
 - 2.5.3.2 Do not proceed with remaining work until Architect or Designer approves workmanship and appearance.

Submittal Sheet



SelectSound®
 Acoustic Blanket



Superior Acoustical Performance

SelectSound Black acoustic blanket provides excellent acoustical performance for walls in multiplex theaters, sound studios and performing arts centers. SelectSound Black acoustic blanket is also ideal for use above suspended metal ceiling systems. Depending on specified thickness, SelectSound Black acoustic blanket absorbs up to 100% of the sound striking its surface. SelectSound Black acoustic blanket helps provide the highest quality audio reproduction by reducing sound reverberation within spaces. Sound transfer from space to space is also noticeably reduced.

Physical Property Data

Property	Test Method	Value
Water vapor sorption (by weight)	ASTM C 1104	<3% by weight at 120°F (49°C), 95% R.H.
Fungi resistance	ASTM C 1338	Meets requirement
Corrosiveness	ASTM C 665 Corrosiveness Test	Will not cause corrosion greater than that caused by sterile cotton on aluminum or steel**
Surface burning characteristics	UL723, ** or CANULC-S102-M**	Flame spread 25** Smoke developed 50
Maximum Air Velocity Erosion Test	UL 181	6,000 fpm (30.5 m/sec.)

** When wet, coated surfaces in contact with galvanized steel may cause discoloration of the sheet metal.
 ** The surface burning characteristics of these products have been determined in accordance with UL 723 and CANULC-S102-M. These standards should be used to measure and describe the properties of materials, products or assemblies in response to heat and flame under controlled laboratory conditions and should not be used to describe or appraise the fire hazard or fire risk of materials, products or assemblies under actual fire conditions. However, results of this test may be used as elements of a fire risk assessment which takes into account all of the factors which are pertinent to an assessment of the fire hazard of a particular end use. Values are reported to the nearest 5 rating.

Durable Material Composition
 SelectSound Black acoustic blanket is dimensionally stable and will not shrink or warp. The blanket's resilient composition resists job-site damage. Composed of inorganic glass fibers, SelectSound Black acoustic blanket will not rot or mildew and is noncorrosive to steel, copper and aluminum.

Fast, High Quality Installation
 This wider product improves job site productivity and requires less seams. Lightweight and resilient, SelectSound Black acoustic blanket is easy to handle, fabricate and install. Both stick pins and adhesives can be used to secure insulation to drywall, concrete block or precast concrete.

Size Availability
 SelectSound Black acoustic blanket is available in standard thicknesses of 1" and 2". A 1 1/2" thickness is available through special order.

The 1" and 1 1/2" product is available in 72" W x 70' L rolls, while the 2" product is available in a 72" W x 50' L roll.

All Black Wool with Black Mat Finish
 SelectSound Black acoustic blanket is an all black wool product with a black mat surface. It is excellent for eliminating light reflections while providing superior acoustical performance.

Design Considerations
 Acoustical performance of interior surfaces can generally be improved by increasing product thickness. SelectSound Black acoustic blanket can be specified for use in conjunction with other Owens Corning acoustical material to provide additional performance.

Applicable Standards
 SelectSound Black acoustic blanket complies with the property requirements of ASTM C 553, Type III, 250°F maximum use temperature. The noise reduction coefficients of SelectSound Black acoustic blanket were derived from tests conducted in accordance with ASTM C 423 on a Type A mounting. Meets New York City MEA No.306-03-M.

Installation Procedure
 SelectSound Black acoustic blanket can be installed on drywall, concrete block or precast concrete using impaling pins or appropriate adhesives. When installing insulation with adhesive, follow adhesive manufacturer's recommendations for surface preparation and pattern. When using impaling pins, follow the pin manufacturer's recommendations for surface preparation, location and amount of pins. Pin length should be selected to ensure tight fit. Where subject to physical contact, protect pin tips. Keep product dry during shipping, storage and installation.

SelectSound® Acoustic Blanket

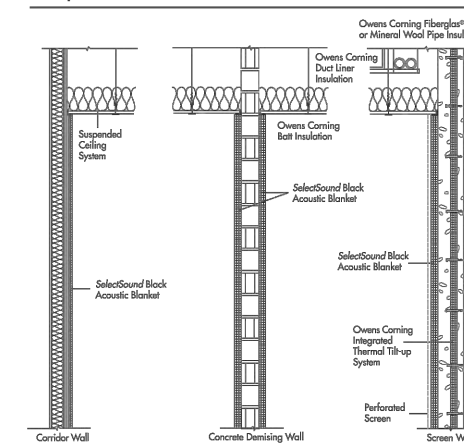
Acoustical Performance

Tested Values – SelectSound Black Acoustic Blanket
 Sound Absorption Coefficients (ASTM C 423, Type "A" Mounting)

Product	Density pcf (kg/m ³)	Thickness in (mm)	Octave Band Center Frequencies, Hz						Thermal Resistance R-Value (hr·ft ² ·°F)/Btu	
			125	250	500	1000	2000	4000		NRC
SelectSound Black	1.5 (24)	1.0 (25)	.10	.34	.64	.87	.91	.91	.70	4.2
Acoustic Blanket	1.5 (24)	1.5 (38)	.12	.62	1.07	1.10	1.01	0.95	0.95	6.3
	1.5 (24)	2.0 (51)	.27	.80	1.12	1.07	1.02	1.01	1.00	8.5

* ASTM C518
 These data were collected using a 16ft² sample size and are not absolute values. Reasonable tolerances must therefore be applied. All tests were conducted in accordance with ASTM C 423, Type A mounting (material placed against a solid backing such as a block wall). Owens Corning Granville Science & Technology Acoustical Lab is National Military Laboratory Accredited Program (NVLAP) approved.

Conceptual Details



For CSI type sample specification, please contact your local Owens Corning representative.



OWENS CORNING WORLD HEADQUARTERS
 ONE OWENS CORNING PARKWAY
 TOLEDO, OHIO, USA 43659
 1-800-GET-PINK
www.owenscorning.com

Owens Corning reserves the right to change this product as needed.

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REVISIONS:

156 S Almont Dr
 Beverly Hills, CA 90211
 TEL: 310.413.9332



SHADE MANHATTAN BEACH
 1221 N Valley Drive
 Manhattan Beach, California 90266
 PROJECT #1306

DATE:
 2/4/2014

SCALE:
 NONE

SHEET NAME:

ID-3.5

Crystal II panels are used in glazing and partition applications requiring high light transmission and superior impact strength. These near-clear panels are supplied with a micrograin gloss finish on both sides, or with a matte or pebbled surface on one side (refer to Crystal II-SOS and Crystal II-POS). The standard micrograin gloss is a medium-reflectivity surface with a slight texture that contributes less diffusion than the matte or pebbled finishes.



By embedding various materials into the panel when casting reinforced acrylic-modified polyester panels, new vistas are opened to the specifier. Woven cane-like embeddings with a natural look include Coco Reed, Rattan, and Kane. Honeycomb and Black Lace are knitted fabric embeddings with a contemporary look.

Embedment of special papers printed with graphics seals the graphics into the panel. Once cast into fiberglass, the sign, display or decorative panel exhibits superior toughness, durability and vandal-resistance. Common applications for graphic embeddings include industrial and safety signage, transit sign panels, and interpretive panels for parks, zoos and museums.

Diamond Design (DD3448) is the designation given to an embedment panel incorporating 3/4"x 1-1/2" expanded aluminum mesh, resulting in a panel with toughness, rigidity and resistance to penetration. At the same time, the diamond-shaped openings form an attractive pattern that allows generous passage of light.

AMERICAN ACRYLIC CORPORATION
400 Sheffield Avenue • West Babylon, New York 11704
(631) 422-2200 • (800) 627-9025 • Fax (631) 422-2811

MATERIAL SAFETY DATA SHEET for fiberglass-reinforced acrylic panels Revised 9/3/02

SECTION 1 - Material Identification

Product names: Panels marketed under the LUMAsite® and AMAC™ trade names.

Appearance: Solid flat plastic panels in translucent or opaque whites and colors.

SECTION 2 - Composition

Panels are composed of cured acrylic resin and fiberglass mat reinforcement. Resin and reinforcement contents fall within the ranges indicated below:

Acrylic polymer	65 to 85% by weight
Fiberglass reinforcement	15 to 35% by weight
Methyl methacrylate monomer	trace

SECTION 3 - Hazard Identification

Fire hazard: Fiberglass-reinforced acrylic sheets are combustible. Fire precautions similar to those appropriate for wood-based products should be observed. Use the following extinguishing media: water spray, dry chemical or carbon dioxide. Fire-fighters must wear appropriate self-contained breathing apparatus and full protective gear.

Fabrication hazard: Dust generated during cutting and fabricating can be hazardous. Wear a protective mask to avoid inhaling the dust.

Dust may be irritating to the eyes. Wear eye protection. If irritation develops, flush eyes with water. Get medical attention if irritation persists. Dust may be irritating to the skin. Wash dust from exposed skin using mild soap and cool water. Wash protective clothing separately.

Over-heating reinforced acrylic materials can produce fumes. Use exhaust ventilation during fabrication if necessary. If nausea, headache or dizziness occurs, move to fresh air.

SECTION 4 - Special Protection

Wear heavy-duty work gloves to protect hands from sharp edges. This is particularly important when handling thinner gauges.

Wear eye protection during handling and fabrication.

Dust generated during cutting and machining can be hazardous. Wear respiratory protection to avoid inhaling the dust.

Dust generated during cutting and machining can be irritating to skin. Wear protective clothing if necessary to minimize exposure to the dust. Wash protective clothing separately.

SECTION 5 - Storage and Handling

Store at ambient temperatures. The material is combustible. Fire precautions similar to those appropriate for wood-based products should be observed.

Wear heavy-duty work gloves to protect hands from sharp edges. This is particularly important when handling thinner gauges.

Wear eye protection during handling and fabrication.

SECTION 6 - Toxicity

These materials are solid sheets, and are not hazardous under normal conditions of storage, handling and installation.

Cutting and machining can produce hazardous dust and vapors. Refer to Section 3 for additional information.

Flammability

LUMAsite® sheets are combustible. Fire precautions similar to those appropriate for wood-based products should be observed.

Fiberglass-reinforced acrylic classifies as a CC 2 material, which means that it exhibits a burning rate of less than 2-1/2-inches per minute when tested by the ASTM D-635 method.

Some reinforced acrylic varieties of LUMAsite® sheets, include Frost-SOS and White 1000-SOS, are available in a type FR (fire-retardant) that classifies as a CC 1 material in .090" and thicker gauges, which means that the material stops burning when tested by the ASTM D-635 method.

Type FR panels also fall into a Class C category (NFPA 255) in some thicknesses, which means that they exhibit flamespread and smoke density values within specific ranges when tested by the ASTM E-84 method. Additional information regarding burning characteristics can be supplied upon request.

Note that no fire-retardant version of the Crystal II or embedment varieties is available.

LIGHTING SPECIFICATIONS

Specification page for translucent varieties of LUMAsite® reinforced acrylic sheets and diffusers (often used for a lighting diffuser in the thinner gauges, and in partitions or as a translucent architectural panel in thicker gauges up to 1/4").

Light Transmissions

VARIETIES	PERCENT LIGHT TRANSMISSION						
	(Typical values: air = 100%)						
	.045"	.060"	.090"	.125"	.150"	.187"	.250"
Frost-SOS	82	80	76	72	69	64	59
Parchment-SOS			70	66		55	50
White 1000-SOS	71	70	62	58	55	49	42
Rice-SOS		72	66	62	59	52	44
Sky-SOS		52	46	41		29	20
Jade-SOS		62	55	48		38	30

Physical Properties

PROPERTY	METHOD	VALUE
Flexural strength, 73 F.	ASTM D-790	20,000 psi
Flexural modulus, 73 F.	ASTM D-790	1,000,000 psi
Tensile strength, 73 F.	ASTM D-638	14,000 psi
Compressive strength, 73 F.	ASTM D-695	25,000 psi
Impact strength, 73 F.	Izod, notched	6 ft-lbs/in
Hardness	Barcol Impressor	55
Heat distortion temp, 264 psi	ASTM D-648	210 F.
Coeff. of expansion	ASTM D-696	.00002 in/in F.

Observed Deflection of edge-supported flat diffusers:

Thickness	Size	Initial	Two Years	Comments
.045"	24" x 24"	3/16"	1/4"	satisfactory if clipped in place
.045"	24" x 48"	3/8"	1/2"	not recommended
.060"	24" x 24"	1/8"	3/16"	satisfactory
.060"	24" x 48"	1/4"	3/8"	satisfactory if clipped in place

.080"	36" x 36"	5/16"	7/16"	not recommended
.080"	24" x 48"	3/16"	1/4"	satisfactory
.090"	36" x 36"	3/16"	1/4"	satisfactory
.090"	36" x 48"	3/8"	1/2"	marginal
.125"	24" x 48"	1/8"	3/16"	satisfactory
.125"	36" x 36"	1/8"	3/16"	satisfactory
.125"	36" x 48"	3/16"	3/16"	satisfactory
.125"	48" x 48"	3/8"	3/8"	satisfactory
.125"	48" x 60"	1/2"	3/4"	marginal

performance fabric

Kovenex thermal barriers are built upon three decades of experience in innovating and manufacturing industrial-grade, engineered performance fabrics and materials.

Certifications & Testing

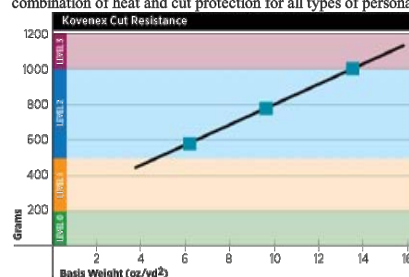
Kovenex TPP levels per basis weight are equal to or better than more expensive woven thermal barriers on the market today.

Kovenex needle-punch battings provide outstanding thermal protection in very light weights for use in all types of protective apparel and equipment. Ounce per ounce, Kovenex fabrics match or outperform other commercially available thermal barriers, including fiberglass, aramid and Modacrylic. Kovenex is tested to:

- NFPA 1971-2007 (structural glove liner)
- NFPA 1971-2007 (protective garments and hoods for structural firefighting)
- ASTM D6413, ASTM D4151 and ASTM D5587
- AATCC-22 and AATCC-35 (water repellent)
- AATCC-135 (moisture water vapor transmission)

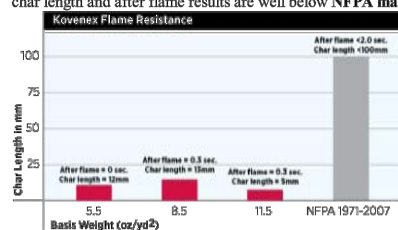
Cut

Tested to ASTM F1790, Kovenex stitchbonded fabrics produce Level 2 cut resistance, creating a unique combination of heat and cut protection for all types of personal protective applications.



Flame

All of the fibers that make up Kovenex fabrics are inherently resistant to extreme temperature and flames. In the Kovenex fabric structure, these fibers act synergistically to provide a heat and fire protection barrier. The char length and after flame results are well below NFPA maximums for performance.



Tear

As a nonwoven fabric, stitch-bonded Kovenex offers outstanding tear resistance. Its minimal fiber migration is the result of a locking structure created by stitch-bonding.

