

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

**TO:** Planning Commission

**FROM:** Marisa Lundstedt, Director of Community Development

**THROUGH:** Laurie B Jester, Planning Manager

**BY:** Jason Masters, Assistant Planner

**DATE:** December 9, 2015

**SUBJECT:** One Year Review of a Use Permit for Compliance with Conditions of Approval, Pursuant to Resolution No. 14-0063, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar – formerly Red Room)

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**RECOMMENDATION**

Staff recommends that the Planning Commission conduct the public hearing, review the existing use permit and provide direction regarding compliance with the conditions of approval for Resolution PC No. 14-0063 (Attachment 1).

**PROJECT BACKGROUND**

The attached City Council Resolution No. 14-0063 provides a complete summary of the background of the project. In 1995 a Use Permit for a restaurant/bar for the current operator was approved. From 2011 thru 2014 there were numerous violations, Code Enforcement proceedings, and then the Planning Commission conducted two public hearings and adopted a Resolution modifying the existing Use Permit. At the February 26, 2014 Planning Commission meeting the Commission received public input in support and against the subject business. Both of the business owners and their representatives provided testimony and indicated their willingness to cooperate. Representatives from the Police Department and the City Prosecutor were present at the meeting. Many of the public comments were in support of the current business, stressing the importance of the 900 Club as a community and family-oriented business. The comments in opposition included use of the back door, noise, after hours operations, and nuisance issues including loitering, unruliness, and boisterous activities outside of the business. After receiving public testimony, the Planning Commission felt that the conditions of the existing Use Permit should be modified to address the neighbors' concerns and be in compliance with the City's Noise Ordinance.

The Planning Commission decision was appealed to the City Council and after three public hearings and meetings, and having received significant public testimony, the City Council adopted Resolution No. 14-0063 approving a modified and restated Use Permit that revised the conditions of approval for the site. The City Council modified and restated the Use Permit including conditions limiting use of the back door, clarifying hours of operation, requiring

security enforcement, regulating entertainment and special events, requiring noise mitigation measures, and specifying maximum occupancy numbers. Condition 20 requires a one-year review at a noticed public hearing. The objective of tonight’s meeting is to review the subject Use Permit for the purpose of assessing whether there has been compliance with all conditions of approval as required under the approved Resolution.

**LOCATION**

The subject property is located at 900 Manhattan Avenue, the northeast corner of 9<sup>th</sup> Street and Manhattan Avenue. It is located in Area District III and zoned CD, Downtown Commercial, as well as the properties to the north, south, and west, which are developed with retail, offices and restaurant uses. The properties to the east and south east across Bayview Drive, are zoned RM, Residential Medium Density and are developed with single-family and multi-family residential units. The existing multi-level building is currently a restaurant/bar (900 Club upstairs and Downstairs Bar downstairs) with live entertainment and an ABC Type 47 Full Alcohol Restaurant license.

**DISCUSSION**

***Adopted Resolution No. 14-0063 (Exhibit A)***

The following is a summary of the revised conditions that address the ongoing violations and neighbors’ concerns. The attached City Council Resolution No. 14-0063 provides the detailed language.

Condition No. 1 - Hours

Hours of operation for the establishment shall be permitted as follows:

Monday - Thursday	11:00am to midnight
Friday	11:00am to 1:00am
Saturday	9:00am to 1:00am
Sunday	9:00am to midnight

At closing time, all areas of the business must be vacated. All music turned off, and no sales, service or consumption of food or alcohol may occur. Staff may remain on the premises for one hour after closing time. “Last call” for food and drinks is 60 minutes prior to closing time and no sales or service of food or drinks, and all music is required to be off 30 minutes prior to closing time.

Condition No. 2 - Alcohol

The service of alcohol shall occur in conjunction with food service as a “bona fide eating place”.

Condition No. 3 - Security

The Business Operator’s representatives must provide a state licensed, bonded and certified security guard from 9:30 pm on Thursday, Friday and Saturday and any day there is a Special Event or Amplified Sound until all staff members have left the premises. The security guard shall ensure that operations comply with all conditions of approval.

Condition No. 4 - Use of Back Door

The back door and storage/utility room on Bayview Drive must remain closed and not be used after 10:00 pm, except for trash removal, disabled or emergency access only, and by bands for the loading and unloading of amplified sound equipment so they can vacate by closing time. The back door keypad access may only be accessible from the outside by the owners/operators and employees, and must be disabled after 10:00 pm. The Business Operator's representatives shall contact the Police Department the first of every month to advise of key access code changes and any other changes.

Condition No. 5 - Front Door

Patrons must use Manhattan Avenue for access after 10:00 pm except for the purpose of disabled or emergency access. The entrance on Bayview Drive may be used by patrons before 10:00 pm and the door shall remain closed when not in use. Patrons shall use the 9<sup>th</sup> Street entrance for access to the first floor (Downstairs Bar formally the Red Room) and the door shall remain closed when not in use.

Condition No. 6 - Amplified Sound

Background music through the house system, is allowed on both the first and second floors so long as the music cannot be heard with the unaided ear at the eastern-most edge of Bayview Drive and the southern edge of 9<sup>th</sup> Street.

Condition No. 7 - Non-Amplified Sound

Non-amplified sound (up to a total of three instrumental musicians and/or vocalists) shall be allowed on both the first and second floors during all operating hours, so long as the music cannot be heard with the unaided ear at the eastern-most edge of Bayview Drive and the southern edge of 9<sup>th</sup> Street. Musicians with non-amplified sound may use the back or side door for the loading and unloading of equipment during operating hours only.

Condition No. 8 - Dancing

Dancing is permitted on Friday and Saturday nights only. Dancing shall be limited to a 12 foot x 12 foot maximum area on the second floor only.

Condition No. 9 - Entertainment Permit

A. The Business Operator must submit an entertainment permit application within 30 days of the date of the Resolution, and annually thereafter.

B. The City may issue, issue with conditions, or deny the entertainment permit. In addition to the conditions that may be imposed, the entertainment permit shall contain the following additional conditions: entertainment is permitted only: (a) on the second floor; (b) on Thursday, Friday, Saturday, or on a day of a "Special Event" as defined in Condition 10; and (c) for no more than 18 days per year. The Business Operator shall provide written notification of the proposed Entertainment to the Director of Community Development, the Police Department and each residence located on 9<sup>th</sup> Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9<sup>th</sup> Street and 10<sup>th</sup> Street a minimum of 7 days prior to such entertainment. "Entertainment" means any activity involving music, including but not limited to live bands, one or more performers of music, or amplified radio or pre-recorded music but not

including background music allowed by Condition 6 or non-amplified sound allowed by Condition 7.

Condition No. 10 - Special Events

A maximum of 6 Special Events are allowed annually. “Special Events” are events of more than 50 people for which there is a contract for exclusive use of the second floor of the venue. A security guard must be on-site at all times during Special Events. If entertainment is proposed for a Special Event, the day of the Special Event shall be included in the maximum allowable 18 days per year for Entertainment, per Condition No. 9. The Business Operator shall provide written notification of each Special Event to the Director of Community Development, the Police Department and each residence located on 9<sup>th</sup> Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9<sup>th</sup> Street and 10<sup>th</sup> Street a minimum of 7 days prior to such entertainment.

Condition No. 11 - Noise

Noise may not exceed maximum noise standards established by the Municipal Code and any applicable State Code. Outdoor sound and amplification is prohibited. All doorways and windows must remain closed during Entertainment and any Special Event except as required for ingress and egress.

Condition No. 12 - Parking

Three parking spaces must be maintained on-site.

Condition No. 13 - Required Clearance

Required access and exits must remain unobstructed at all times in compliance with Fire and Building and Safety requirements.

Condition No. 14 - Occupancy

The occupancy limits may not be exceeded and must be posted on-site at all times:

- a. Downstairs Bar (Formally Red Room (downstairs) – 31
- b. 900 Club (upstairs) – 92

Condition No. 15 - Signage

All signs must be in compliance with the City’s Sign Code. Pole signs and internally illuminated awnings are prohibited.

Condition No. 16 - Noise Mitigation Measures

The following noise mitigation measures must be installed within 45 days and maintained at all times:

- a. Tempered glass panels over each upstairs stained glass window along the south wall.
- b. A separate tempered glass panel over the inside windows upstairs along the south rear hallway.
- c. Double pane windows on Manhattan Avenue and 9<sup>th</sup> Street upstairs and downstairs.
- d. Signage on the Bayview Drive rear door (inside and outside) to not enter or exit after 10:00 pm.

- e. Sound curtains on the double pane windows adjacent to Manhattan Avenue and 9<sup>th</sup> Street on the second floor.

Condition No. 17 - Litter

The business must police the surrounding property to keep it free of litter, and must discourage patrons from entering residential areas. The business must ensure all City and other governmental regulations, and conditions are met, maintained and upheld. The Business The business must do all they can to prevent loitering, unruliness, and boisterous activities of patrons.

Condition No. 18 - Inspection

The City shall be allowed to inspect the site at any time. The business shall provide the Police, Fire, County Health Departments and the Alcoholic Beverage Control (ABC) with the key pad code for access any time. The Business Operator's representatives shall contact the Police Department the first of every month to advise of any key access code changes.

Condition No. 19 - Revocation/Modification

At any time in the future, the Planning Commission or City Council may review the Use Permit for the purpose of revocation or modification. The Planning Commission or City Council may modify the Use Permit in any manner it deems necessary to protect the public health, safety, and welfare, and ensure that the activities on the premises do not adversely impact neighboring properties, including, but not limited to the following: limitation of hours; limitation of total occupancy; requiring valet parking; elimination of live entertainment or amplified sound; dancing or the establishment of any other condition deemed necessary to mitigate or alleviate impacts to adjacent land uses.

Condition No. 20 - One Year Review

One year following the effective date of the Resolution, a duly noticed public hearing shall be conducted by the Planning Commission for the purpose of reviewing the subject Use Permit for compliance with all conditions.

***Compliance with Conditions***

Staff conducted a site visit on November 24, 2015 to verify compliance with the conditions of approval of the Resolution. During the site visit, it was determined that the property owner was in compliance with all approved conditions related to improvements on the site.

The Business Owner submitted the required Entertainment Permit as required by Condition No. 9, although it was submitted approximately one month late. When routed to the other Departments for review and comment, there were no comments or additional conditions requested. The Permit is valid until February 29, 2016. The business owner will need to submit a new permit application prior to that date in order to have it valid by March 1, 2016.

Condition No. 9 and No. 10 also require that the Business Owner provide the City with written notification of "Entertainment" and "Special Events" respectively. The City was not notified of any such events. Staff is not aware of receiving complaints related to any events if any did occur without prior notification. Staff has requested that the applicant provide a list of the past years

events, however the list had not been received as of the distribution of this report. Finally, Condition No. 4 and No. 18 both require the Business Owner to provide the Police Department with the key access code for the backdoor, which has been provided.

The Code Enforcement Officer received two phone calls within the past several months from a neighbor who asserted the business is staying open past their closing hours and that there have been several incidents of loud noise. The neighbor indicated that no one called the Police to complain and did not want to make any formal complaints, but wanted to inform the Code Enforcement Officer of the situation.

***Police Department Comments***

Since the approval of Resolution 14-0063 on October 7, 2014, the Police Department has responded to the 900 Club five (5) times. The calls did not indicate if the incident reported was upstairs or downstairs. While the goal of the City is to not receive any complaints, the calls do not appear to show a pattern of noncompliance, and the number and type of incidents were not atypical or egregious. None of the incidents indicated that the establishment was operating after hours, although the Sunday July 25<sup>th</sup> incident that was outside the establishment was after the restaurant/bar was closed at midnight.

1. Tuesday, January 6, 2015 (11:48 p.m.) Patron causing disturbance.
2. Sunday, July 25, 2015 (1:00 a.m.) Establishment closed, loud subjects outside.
3. Sunday, August 1, 2015 (10:10 p.m.) Loud music.
4. Friday, August 14, 2015 (12:06 a.m.) Loud subject.
5. Saturday, September 5, 2015 (10:56 p.m.) Loud music.

***Public Comments***

A public notice for tonight’s hearing was published in the Beach Reporter on November 26th, and mailed to all residents and property owners within a 500’ radius. The Municipal Code only requires property owner notification, however staff felt it was also important to provide notice to residents considering there are a number of non-owner occupied residences in the area. As of the writing of this report, staff has not received any written correspondence regarding the subject Use Permit review.

**ENVIRONMENTAL DETERMINATION**

In accordance with the provisions of the California Environmental Quality Act (CEQA), the Community Development Department found that the subject project would not have a significant effect on the environment because there is no expansion of use and therefore exempt per Section 15301, Class 1 and Section 15321 (Enforcement Actions of Regulatory Agencies of Title 14 of the California Code of Regulations).

**CONCLUSION**

Staff recommends that the Planning Commission conduct the public hearing, review the existing use permit and provide direction regarding compliance with the conditions of approval for Resolution PC No. 14-0063 (Attachment 1). Although there have been a few reports of incidents, staff does not feel it is a pattern of noncompliance. Staff will continue to work with the applicant and other City Departments so that the applicant continues to comply with the conditions of approval.

**EXHIBITS:**

- A. Resolution No. 14-0063

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RESOLUTION NO. 14-0063

**A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING, SUBJECT TO CONDITIONS, A MODIFIED AND RESTATED USE PERMIT FOR AN EXISTING RESTAURANT/BAR ("EATING AND DRINKING ESTABLISHMENT") AT THE PROPERTY LOCATED AT 900 MANHATTAN AVENUE (CEQA CATEGORICAL EXEMPTION)**

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

**Section 1.** On April 4, 1995, the City Council adopted Resolution No. 5155, modifying a discretionary use permit ("Use Permit") for a restaurant/bar (then called the Rock Bottom Saloon) at property located at 900 Manhattan Avenue (the "premises"), subject to a number of conditions. The property is owned by Manhattan Highlands LTD ("Owner") and the business is owned by the 900 Club LLC ("Business Operator"). At the time of the public hearing before the City Council on August 19, 2014, the Business Operator referred to the upstairs portion of the property as the 900 Club and the downstairs portion of the property as the Red Room.

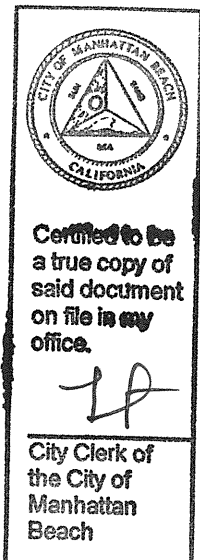
**Section 2.** In reliance on the entitlements conferred by Resolution No. 5155, the Business Operator established a private club ("900 Club") in the upstairs of the premises and a restaurant/bar, open to the public, downstairs on the premises.

**Section 3.** At various times during the period of 2011-2014, the Business Operator has violated Manhattan Beach Municipal Code ("MBMC" or "Municipal Code") provisions and Use Permit conditions. The City initiated code enforcement proceedings, described with more particularity in the City Prosecutor's Log entered into the record at the February 26, 2014 Planning Commission meeting.

**Section 4.** Based on such violations, the Community Development Director determined that there were reasonable grounds for modification or revocation of the Use Permit and set a public hearing before the Planning Commission pursuant to MBMC Section 10.104.030.

**Section 5.** On February 26, 2014, the Planning Commission held a duly noticed public hearing to consider the modification or revocation of the Use Permit. In addition to providing legally required notice, the City provided courtesy notices to the owners, operators, and agents of the 900 Club and the Red Room on January 7, 2014. At the public hearing, City staff presented a staff report, testified and presented documentary evidence. The Planning Commission provided an opportunity to all interested parties, including the owners, operators, and agents of the 900 Club and the Red Room, and neighbors, residents and owners of properties in the vicinity, to offer testimony and evidence. There was evidence and testimony presented that, on numerous occasions, the police have visited the site in response to complaints about noise, serving alcohol after hours, operating after hours, violating conditions of approval, and other activities detrimental to public health, safety and welfare. The Planning Commission entered into the record all evidence presented, including but not limited to the staff report and all attachments, the City Prosecutor's log, Police Department reports and videotapes.

**Section 6.** Based upon substantial evidence in the record, the Planning Commission found that on one or more occasions the 900 Club has:

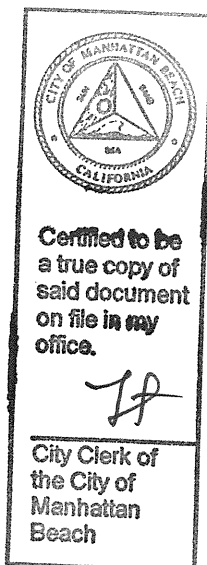


**ATTACHMENT A  
PC MTG 12-9-15**

- a. Generated excessive noise that disturbed the peace and quiet of the neighborhood.
- b. Operated after closing hours, in violation Resolution No. 5155 Condition No. 1, as documented by Police Department Reports #13-780, #13-1289, and #13-3570 and the City Prosecutor's log.
- c. Violated Resolution No. 5155 Condition No. 5 and adversely impacted persons in the vicinity by generating excessive noise in violation of the City's noise ordinance.
- d. Operated in violation of Resolution No. 5155 Condition No. 11 by failing to provide adequate management to prevent loitering, unruliness, and boisterous activities of patrons outside the business or in the immediate area.
- e. Operated in violation of Condition No. 6 of Resolution No. 5155 by holding special events without obtaining a Class II Entertainment Permit.

**Section 7.** Based upon the foregoing, and substantial evidence in the record, the Planning Commission found:

- a. The 900 Club has operated in a manner that is detrimental to the public health, safety and welfare.
- b. The operation of the 900 Club has violated the terms and conditions of Resolution No. 5155 and the City's noise ordinance by generating excessive noise.
- c. The Business Operator has violated the terms and conditions of Resolution No. 5155 by operating after closing hours.
- d. The Business Operator has violated the terms and conditions of Resolution No. 5155 by failing to provide adequate management to prevent loitering, unruliness, and boisterous activities of patrons outside the business and in the immediate area.
- e. The Business Operator has violated the terms and conditions of Resolution No. 5155 by holding special events without first obtaining a Class II Entertainment Permit.
- f. The Business Operator has violated the Municipal Code and the Use Permit conditions of approval.
- g. Due to such violations, Resolution No. 5155's existing conditions of approval are inadequate to halt the interference with the neighbors' quiet enjoyment, and additional conditions are required to ensure that the 900 Club operates in a manner that does not adversely impact neighboring properties.
- h. To ensure that the 900 Club, the Red Room, and subsequent operators operate in a manner that does not adversely impact neighboring properties and is not detrimental to the health, safety or welfare of persons residing or working in the vicinity, Resolution No. 5155's conditions of approval need to be modified and augmented.



**Section 8.** After closing the February 26, 2014 public hearing, the Planning Commission directed staff to prepare a draft resolution with recommended modifications to the Use Permit and its conditions to mitigate the adverse impacts arising from the use identified in Sections 6 and 7.

**Section 9.** On May 14, 2014, the Planning Commission provided an opportunity for all interested parties, including the owners, operators, and agents of the 900 Club and the Red Room, neighbors and residents, to comment on the draft resolution and conditions. After providing that opportunity, the Planning Commission adopted Resolution No. PC 14-06, modifying the Use Permit subject to certain conditions.

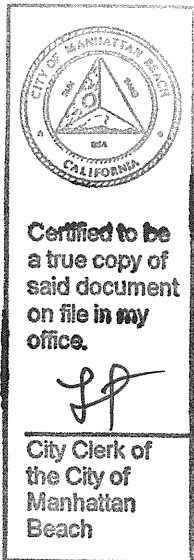
**Section 10.** On May 27, 2014, Don McPherson (the "Appellant") filed an appeal of the Planning Commission's decision to modify the Use Permit, requesting that the City Council consider additional conditions. The Appellant and his attorneys of record supplemented the appeal with additional written material.

**Section 11.** On August 19, 2014, the City Council held a public hearing to consider the appeal. Staff presented a staff report including a slide presentation. The City Council provided an opportunity for the Appellant and all interested parties, including the owners, operators, and agents of the 900 Club and the Red Room, neighbors and residents, to comment. The City provided to the Appellant and a lawyer supporting his position over half an hour to comment, testify, and present new evidence including a slide presentation. Attorneys representing the owner of the property and the operators were provided an equal opportunity to represent the interests of their respective clients. The operator of the 900 Club and others also provided comments to the City Council. The City Council asked questions of staff, the operator's and owner's representatives, and the Appellant. After the close of the public hearing, the City Council directed staff to prepare a draft resolution affirming the decision of the Planning Commission to modify the Use Permit subject to all of the conditions set forth in Resolution No. PC 14-06 and the following requirements: (a) the operator of the 900 Club shall obtain an Entertainment Permit; and (b) the security guard required by the Planning Commission shall stay on the premises until all staff members have left the premises.

**Section 12.** On September 2, 2014, the City Council provided an opportunity for all interested parties, including the owners, operators, and agents of the 900 Club and the Red Room, the Appellant and his representatives, neighbors, and residents, to comment on the draft resolution and conditions. On October 7, 2014, the City Council provided an additional opportunity for all interested parties, including the owners, operators, and agents of the 900 Club and the Red Room, the Appellant and his representatives, neighbors, and residents, to comment on the revised draft resolution and conditions.

**Section 13.** The modification of the existing Use Permit (the "Project") has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. It has been determined that the Project would not have a significant environmental impact and is exempt from CEQA pursuant to Section 15301 (Existing Facilities) and Section 15321 (Enforcement Actions of Regulatory Agencies) of Title 14 of the California Code of Regulations.

**Section 14.** Based on the foregoing facts and findings and the substantial evidence entered into the record, and pursuant to State law and the City's Municipal Code, the City Council hereby exercises its independent judgment and affirms the Planning Commission's modification of the Use Permit, subject to the conditions stated below. The City Council's decision is based upon each of the foregoing totally independent and separate grounds, including those stated in Sections 6 and 7 herein, each of which stands alone as a sufficient basis for its decision. The City Council hereby incorporates by reference each of the findings



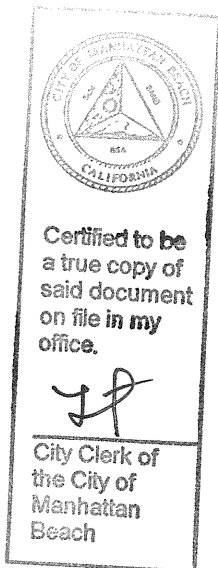
made by the Planning Commission in support of this modification.

- Hours of operation for the establishment shall be permitted as follows:

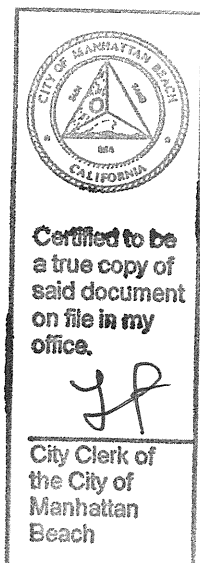
Monday - Thursday	11:00am – midnight
Friday	11:00am – 1:00am
Saturday	9:00am – 1:00am
Sunday	9:00am – midnight

At closing time, all areas (inside and outside) of the business must be vacated. All music (house system and bands) shall be turned off, and no sales, service or consumption of food or alcohol shall occur after closing time. Staff may remain on the premises for one hour after closing time. "Last call" for food and drinks to patrons shall commence 60 minutes prior to closing time and no sales or service of food or drinks, and all music shall be off 30 minutes prior to closing time.

- The service of alcohol shall occur in conjunction with food service as a "bona fide eating place" type of alcohol license (Type 47) from the State of California shall be maintained.
- The Business Operator's representatives shall provide a state licensed, bonded and certified security guard from 9:30 pm on Thursday, Friday and Saturday and any day there is a Special Event or Amplified Sound until all staff members have left the premises. The security guard shall ensure that operations comply with all conditions of approval, including but not limited to the following: noise, use of the back door, litter, access, windows and doors being closed, and any other adverse impacts on the neighborhood.
- The back door and storage/utility room on Bayview Drive shall remain closed and not be used after 10:00 pm, except the back door may be used for trash removal or disabled or emergency access only. Additionally, bands shall be allowed to use the back door for the loading and unloading of amplified sound equipment and shall vacate the site by closing time. The back door keypad access shall be maintained and only be accessible from the outside by the owners/operators and employees, however, all outside areas shall be disabled after 10:00 pm. No patron shall be provided a key or access code for the back door or the storage/utility room. The Business Operator's representatives shall contact the Police Department the first of every month to advise of key access code changes and any other changes.
- Patrons must use Manhattan Avenue for access to the 900 Club after 10:00 pm except for the purpose of disabled or emergency access. The entrance on Bayview Drive for the 900 Club may be used by patrons before 10:00 pm and the door shall remain closed when not in use. Patrons shall use the 9<sup>th</sup> Street entrance for access to the first floor and the door shall remain closed when not in use.
- Background music through the house system, is allowed on both the first and second floors during all hours of operation, so long as the music cannot be heard with the unaided ear at the eastern-most edge of Bayview Drive and the southern edge of 9<sup>th</sup> Street.



7. Non-amplified sound (up to a total of three instrumental musicians and/or vocalists) shall be allowed on both the first and second floors during all operating hours, so long as the music cannot be heard with the unaided ear at the eastern-most edge of Bayview Drive and the southern edge of 9<sup>th</sup> Street. Musicians performing with non-amplified sound shall be allowed to use the back or side door for the loading and unloading of equipment during operating hours only.
8. Dancing is permitted on Friday and Saturday nights only. Dancing shall be limited to a 12 foot x 12 foot maximum area on the second floor.
9. A. The Business Operator (and its successors-in-interest, if applicable) shall submit a complete application for an entertainment permit, pursuant to the process set forth in MBMC Chapter 4.20 applicable to Class I Permits, within 30 days of the date of this Resolution, and annually thereafter on or before the anniversary date of the initial issuance date in the event such permit is issued.  
  
B. The City may issue, issue with conditions, or deny the entertainment permit. In addition to the conditions that may be imposed pursuant to MBMC Section 4.20.080, any entertainment permit issued pursuant to this condition shall contain the following additional conditions: entertainment is permitted only: (a) on the second floor of the premises; (b) on Thursday, Friday, Saturday, or on a day of a "Special Event" as defined in Condition 10; and (c) for no more than 18 days per year. The Business Operator shall provide written notification of the proposed entertainment to the Director of Community Development, the Police Department and each residence located on 9<sup>th</sup> Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9<sup>th</sup> Street and 10<sup>th</sup> Street a minimum of 7 days prior to such entertainment. For the purposes of this subsection B, "entertainment" shall mean any activity involving music, including but not limited to live bands, one or more performers of music, or amplified radio or pre-recorded music but shall not include background music allowed by Condition 6 or non-amplified sound allowed by Condition 7.
10. A maximum of 6 Special Events shall be allowed annually. For the purpose of this section, "Special Events" are events of more than 50 people for which there is a contract for exclusive use of the second floor of the venue. A security guard shall be on-site at all times during Special Events to ensure that operations comply with all conditions of approval, including but not limited to, noise, use of back door, litter, access, windows and doors being closed, and any other adverse impact on the neighborhood. If entertainment (as defined in Condition 9) is proposed for a Special Event, the day of the Special Event shall be included in the maximum allowable 18 days per year for entertainment, as specified in any permit issued pursuant to Condition No. 9. The Business Operator shall provide written notification of each Special Event to the Director of Community Development, the Police Department and each residence located on 9<sup>th</sup> Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9<sup>th</sup> Street and 10<sup>th</sup> Street a minimum of 7 days prior to such entertainment.
11. Noise emanating from the site shall not exceed maximum noise standards established by the Municipal Code and any applicable State Code. Outdoor sound equipment and outdoor amplification systems are prohibited. All doorways and windows shall remain closed during entertainment (as defined in Condition 9) and any Special Event (as defined in Condition 10) except as required for ingress and egress.



12. Three parking spaces shall be maintained on-site at the rear of the building.
13. Required access and exits shall remain unobstructed at all times in compliance with Fire and Building requirements.
14. The occupancy limits stated below shall not be exceeded and are required to be posted on-site at all times:

Downstairs – 31

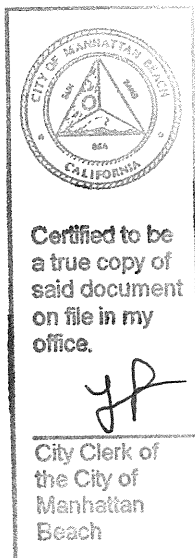
Upstairs – 92

15. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.
16. The following noise mitigation measures shall be installed within 45 days and maintained at all times:
  - a. Tempered glass panels installed over each upstairs stained glass window along the south wall.
  - b. A separate tempered glass panel installed over the inside windows upstairs along the south rear hallway.
  - c. Double pane windows on Manhattan Avenue and 9<sup>th</sup> Street upstairs and downstairs.
  - d. Signage on the Bayview Drive rear door (inside and outside) to not enter or exit after 10:00 pm.
  - e. Sound curtains shall be installed on the double pane windows adjacent to Manhattan Avenue and 9<sup>th</sup> Street on the second floor.
17. The Business Operator's representatives shall police the property in all areas immediately adjacent to the premises to keep it free of litter, and shall undertake and implement all reasonably necessary actions to discourage patrons from entering residential areas. The Business Operator's representatives shall ensure all City and other governmental laws, rules, ordinances, regulations, codes, requirements, operating permits, and conditions are met, maintained and upheld. The Business Operator's representatives shall undertake and implement all reasonably necessary techniques to prevent loitering, unruliness, and boisterous activities of patrons and limit all activities to comply with the City's Municipal Noise Ordinance.

18. The Community Development Department staff shall be allowed to inspect the site at any time. The Business Operator's representatives shall provide the Police, Fire, County Health Departments and the Alcoholic Beverage Control (ABC) with the key pad code for access any time. The Business Operator's representatives shall contact the Police Department the first of every month to advise of any key access code changes.

**Procedural**

19. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purpose of revocation or modification. The Planning



Commission or City Council may modify the Use Permit in any manner it deems necessary to protect the public health, safety, and welfare, and ensure that the activities on the premises do not adversely impact neighboring properties, including, but not limited to the following: limitation of hours; limitation of total occupancy; requiring valet parking; elimination of live entertainment or amplified sound; dancing or the establishment of any other condition deemed necessary to mitigate or alleviate impacts to adjacent land uses.

20. One year following the effective date of this Resolution, a duly noticed public hearing shall be conducted by the Planning Commission for the purpose of reviewing the subject Use Permit for compliance with all conditions.

**Section 15.** This Resolution shall serve as the amended and restated Use Permit for the subject property. Resolution Nos. 5155, 3555, and 5117 shall no longer be in effect.

**Section 16.** RECORDATION. The Owner and Business Operator shall record a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The executed covenant shall be delivered to the Department of Community Development within 30 days of the date of this Resolution. At the time of delivery of the covenant, all fees necessary to record the document with the County Recorder shall be paid to the City.

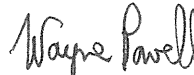
**Section 17.** VIOLATION OF CONDITIONS. The Owner and Business Operator shall comply with all conditions herein within 45 days of the date of this Resolution. A violation of any of the conditions may result in further proceedings to consider revocation or modification of the Use Permit pursuant to MBMC Section 10.104.030.

**Section 18.** Section 1094.6 of the California Code of Civil Procedure governs the time within which judicial review, if available, of the City Council's decision must be sought, unless a shorter time is provided by other applicable law. The City Clerk shall send a certified copy of this Resolution to the Appellant and the attorneys for the Owner and the Business Operator.

**Section 19.** The City Clerk shall certify to the adoption of this Resolution.


PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of October , 2014

Ayes: Howorth, Lesser, D'Errico, Burton, and Mayor Powell  
Noes: None  
Absent: None  
Abstain: None



\_\_\_\_\_  
Mayor  
City of Manhattan Beach


Attest:

  
\_\_\_\_\_  
Liza Tamura, City Clerk

(SEAL)



**Certified to be a true copy  
of the original of said  
document on file in my  
office.**

  
\_\_\_\_\_  
City Clerk of the City of  
Manhattan Beach, California

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