

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

TO: Planning Commission

FROM: Anne McIntosh, Director of Community Development

THROUGH: Laurie B Jester, Planning Manager

BY: Jason Masters, Assistant Planner

DATE: March 14, 2018

SUBJECT: Consideration of a Resolution Approving a Use Permit Amendment for the 900 Club and Downstairs Bar for operational changes and changes to the Entertainment Permit requirements, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar)

RECOMMENDATION:

Staff recommends that, after **CONSIDERING** all the evidence presented, the Planning Commission **ADOPT** the attached Resolution approving the Use Permit Amendment with conditions.

APPLICANT/OWNER:

900 Club/Downstairs Bar
900 Manhattan Avenue
Manhattan Beach, CA 90266

BACKGROUND:

At its regular meeting of February 28, 2018, the Planning Commission conducted a public hearing, continued from January 24th, for a use permit amendment for the 900 Club/Downstairs Bar. After considering public testimony, the Commission directed staff to prepare a Resolution approving operational changes including removing the “last call” provision, and changing the Entertainment Permit to allow up to 24 entertainment events per year plus other conditions to address impacts from the Downstairs Bar as discussed below.

DISCUSSION:

The attached draft Use Permit Amendment Resolution (Attachment A) for 900 Manhattan Avenue would replace the existing Use Permit (Resolution No. 14-0063) for the property. The Resolution contains conditions of approval and other changes previously reviewed by the Planning Commission, as well as facts and findings to support the Amendment.

The Planning Commission’s primary concern with this project was with noise emanating from the Downstairs Bar. The attached draft Resolution includes findings for approving

the removal of the “last call” provision, and changing the Entertainment Permit to allow up to 24 entertainment events per year. The Resolution provides other new and revised conditions including requiring an on-site manager to address nuisance issues, training employees on the Use Permit conditions, requiring that the downstairs doors and windows be closed after 10:00 pm with a self-closing door on 9th Street, continuing to require a security guard and prohibit amplified sound downstairs, requiring the security guard to direct patrons exiting the establishments to wait for ride-hail services on Manhattan Avenue, requiring a one-year review and new “no smoking-be respectful of neighbors” signage downstairs. The redline- strikeout conditions show the revisions to the existing conditions (Attachment B).

The Resolution also restates conditions previously required under the existing Use Permit (Resolution No. 14-0063). These include the seven-day minimum advanced notification of entertainment events to the City and neighbor representatives, the requirement for a security guard located on 9th Street on Thursday, Friday, Saturday nights, and during entertainment and special events, and condition #8 already requires that the downstairs 9th Street door be closed when not in use. Conditions that have been completed already, including Condition #21 related to installation of noise mitigation measures, have been updated to reflect current conditions, as well as standard Use Permit conditions have been added.

Public Input

The Planning Commission received input at the public hearings on February 28 and January 24, 2018. Staff received several written public comments, including those received after the previous meeting (Attachment D), generally regarding noise impacts from the Downstairs Bar. The draft February 28th minutes are included as a separate item in this agenda packet.

CONCLUSION:

Staff recommends that, after considering all the evidence presented, the Planning Commission adopt the attached Resolution approving the Use Permit Amendment with conditions.

ALTERNATIVES:

1. Direct staff to prepare a resolution denying the 900 Manhattan Avenue request, thereby continuing the existing Use Permit entitlement (Resolution No. 14-0063)
2. Re-notice and reopen the public hearing for further public input and discussion.

Attachments:

- A. Draft Resolution No. 18-XX-
- B. Redline strikeout conditions
- C. February 28, 2018 Staff Report and attachments
- D. Public comments received after distribution of February 28th report

‘Draft’ RESOLUTION NO. PC 18-XX

RESOLUTION OF THE PLANNING COMMISSION APPROVING A USE PERMIT AMENDMENT FOR THE 900 CLUB AND DOWNSTAIRS BAR, AN EXISTING RESTAURANT/BAR AT 900 MANHATTAN AVENUE (900 CLUB AND DOWNSTAIRS BAR)

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

SECTION 1.

- A. On April 4, 1995, the Manhattan Beach City Council adopted Resolution No. 5155, modifying a discretionary use permit for a restaurant/bar (then called the Rock Bottom Saloon) at the property located at 900 Manhattan Avenue, subject to a number of conditions.
- B. Under the entitlements conferred by Resolution No. 5155, the 900 Club (established and operated as a private club) and the Downstairs Bar (formally the Red Room and open to the public), were established in the upstairs and downstairs spaces, respectively.
- C. The subject property is legally described as Portion of Lot 6, Block 69, Division No. 2 in the City of Manhattan Beach, County of Los Angeles.
- D. The subject property is located in Area District III and is zoned CD, Downtown Commercial. The surrounding properties are zoned CD to the north, south and west, and RM (Medium-family Residential) to the east.
- E. The use is permitted in the CD zone subject to a Use Permit and is in compliance with the City’s General Plan designation of Downtown Commercial.
- F. At various times during the period of 2011-2014, the Business Operator violated Manhattan Beach Municipal Code (MBMC) provisions and Use Permit conditions. The City initiated code enforcement proceedings, and on February 26, 2014, the Planning Commission held a duly noticed public hearing to consider the modification or revocation of the Use Permit. The Planning Commission found that on one or more occasions the 900 Club had violated several conditions of their Use Permit. Due to such violations, the Planning Commission found that Resolution No. 5155’s then-existing conditions of approval were inadequate and that additional conditions were required. 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 subject use.
- G. On May 14, 2014, the Planning Commission adopted Resolution No. PC 14-06, modifying the Use Permit with certain conditions, and an appeal of the Planning Commission’s decision was filed requesting that the City Council consider additional conditions.
- H. On August 19, 2014, the City Council held a public hearing to consider the appeal and directed staff to prepare a draft resolution affirming the decision of the Planning Commission plus providing additional conditions.
- I. On September 2, 2014, and again on October 7, 2014, the City Council held public hearings to provide additional opportunity for public comment, and thereafter adopted Resolution No. 14-0063.
- J. On December 9, 2015, the Planning Commission held a Public Hearing for the one-year review of 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. At that time, the Planning Commission felt that the applicant had complied with all conditions of approval and that no further annual review or conditions were warranted.
- K. On August 17, 2017, the owner the 900 Club and Downstairs Bar filed an application for a Use Permit Amendment to increase the hours of operation and increase the number of annual

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Entertainment Permits.

- L. On January 24, 2018, the Planning Commission held a duly noticed public hearing to consider the amendment of the Use Permit. The City provided public notice of the public hearing on January 11, 2018, in accordance with State law. At the public hearing, the Commission provided an opportunity to all interested parties, including the owners, operators, and agents of the 900 Club and the Downstairs Bar, neighbors and residents, to offer testimony. There was testimony presented that the 900 Club has generally operated within the conditions of approval of the existing Use Permit, but that the Downstairs Bar had become a source of noise concerns detrimental to public health, safety and welfare. The Planning Commission continued the Public Hearing to the meeting of February 28, 2018, and directed staff to prepare draft conditions removing the "last call" requirement of Condition #1 and increasing the Entertainment Permit Events to 24 annually, and to work with the applicant and neighbors to discuss noise mitigation conditions. Staff met once at the 900 Club and Downstairs Bar with the applicants and a second time with both the applicants and neighboring residents to produce solutions to the noise concerns, which are reflected in the conditions of approval.
- M. At the continued public hearing on February 28, 2018, the Planning Commission took additional testimony, closed the public hearing, and directed staff to bring a draft resolution back on March 14, 2018 for consideration of amendments to the Use Permit to address the issues and concerns at the hearings, to eliminate the last call provision and increase the annual Entertainment Events to 24, but not increasing the hours of operation.
- N. On March 14, 2018, the Planning Commission discussed and considered the draft Resolution.
- O. The subject property is a single commercial building occupied by the 900 Club upstairs and the Downstairs Bar downstairs with three existing on-site parking spaces.
- P. The amendment of the existing Use Permit (the "Project") was 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 has no potential to result in 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.
- Q. A de minimis impact finding is hereby made that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- R. In accordance with Manhattan Beach Municipal Code Section 10.84.060, the Planning Commission makes the following findings related to the Use Permit Amendment:

1. The proposed location of the use is in accord with the objectives of this title and the purpose of the district in which the site is located;

The proposed project is located within the (CD) Downtown Commercial district. The project does not encompass a change in classification of use, but rather a change in the operational characteristics. The use is within an existing commercial building and will continue as a commercial use consisting of a restaurant/bar. The business is in accord with the objectives of this title and the purpose of the district in which it is located since the project is a commercial use consistent with Section 10.16.010 of the Manhattan Beach Zoning Code, which states that the district is intended to provide opportunities for a full range of commercial uses needed by residents of, and visitors to, the City and region, and to strengthen the City's economic base, but also protect small businesses that serve City residents.

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With amended and additional conditions, the application is consistent with the purpose of the district and zone. 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, as conditioned.

- 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;**

The restaurant/bar use, with the amended and additional conditions, would pose no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city in that the site continues to operate as a restaurant/bar use providing a variety of services to the public and City's residents.

The General Plan designation for the property is Downtown Commercial. This designation reflects the commercial nature of the area with various retail, restaurants and supportive commercial services. The modifications, as conditioned, are consistent with the following General Plan Goals and Policies:

Goal LU-4: Support and encourage the viability of the commercial areas of Manhattan Beach.

The proposed project is consistent with offering a wide variety of services and supporting the mix of commercial uses.

Goal LU-5: Encourage high quality, appropriate private investment in commercial areas of Manhattan Beach.

The proposed project will provide a desired service to customers, therefore supporting the downtown Manhattan Beach area.

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

The proposed project will support the operational viability of two existing businesses in the Downtown area.

- 3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located; and**

The proposed amendments are in compliance with applicable performance and development standards. Therefore, the proposed amendments will comply with the provisions of Title 10 of the Municipal Code (Zoning Ordinance), including any specific condition required for the proposed use in the CD zoning district in which it is located. A Use Permit Amendment is required to modify the existing operational approvals for the subject property. The proposed amendments are for an existing commercial use which is permitted with a use permit in the (CD) Downtown Commercial zone.

- 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.**

The proposed operational changes will not adversely impact nearby properties as the use currently exists at the site, and further conditions are imposed. The proposed

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operational change poses no increase to the parking demand in the Downtown Commercial zone. The change in operations of the use will not affect required parking, and the conditions imposed by the Use Permit Amendment will lessen impacts on noise, resident security and personal safety. It is not anticipated that the operational changes in the existing commercial property will impact the capacity of public services and facilities.

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

Operational

1. The project shall be in substantial conformance with the project description submitted to, and approved by the Planning Commission on March 14, 2018 as amended and conditioned. Any substantial deviation from the approved project description, as conditioned, shall require approval from the Planning Commission.
2. In the event that the businesses known as 900 Club and Downstairs Bar should vacate the premises, either or both tenant spaces at 900 Manhattan Avenue, may be occupied by another similar use if, upon its review, the Department of Community Development determines that the replacement use has the same use characteristics as 900 Club and Downstairs Bar, including but not limited to, type of service provided, and peak hours of activity.
3. 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
4. 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.
5. 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.
6. 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, directing patrons exiting both establishments to wait for ride-hail services on Manhattan Avenue and addressing any other adverse impacts on the neighborhood.
7. 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

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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.

8. 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 9th Street entrance for access to the first floor and the door shall remain closed when not in use. The downstairs windows on Manhattan Avenue, and 9th Street shall be closed daily after 10:00 pm.
9. 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 9th Street.
10. 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 9th 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.
11. 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.
12. 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.
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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 24 days per year. Entertainment is not permitted downstairs. 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 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th 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.
13. 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 24 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

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Director of Community Development, the Police Department and each residence located on 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th Street a minimum of 7 days prior to such entertainment.

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

Downstairs Bar (downstairs) – 31

900 Club (upstairs) – 92
18. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. New signage stating that smoking is prohibited and occupants need to be respectful of neighbors shall be posted near the downstairs exit, subject to review and approval of the Director of Community Development.
19. An on-site manager shall be available at all times to actively address noise and other issues, be responsive to neighbors, and manage unruly patrons.
20. The operator shall provide the list of conditions for the business to all employees when they are hired and trained, include them in any employee handbook and make sure they are physically available at the bars both upstairs and downstairs.
21. All of the following noise mitigation measures that have not yet been installed 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 9th 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 9th Street on the second floor.
 - f. The downstairs windows on Manhattan Avenue and 9th Street and the 9th Street door downstairs shall be closed daily after 10:00 pm.
 - g. A self-closing mechanisms shall be affixed to the downstairs 9th Street door.
 - h. Signage related to "no smoking and respecting neighbors" as described in condition #15.
22. 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

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reasonably necessary actions to discourage patrons from entering residential areas. 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 Management shall undertake and implement all reasonably necessary techniques to prevent loitering, unruliness, boisterous activities of patrons and limit all activities to comply with the City's Municipal Noise Ordinance.

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

Procedural

24. 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.
25. 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 Amendment for compliance with all conditions.
26. This Resolution shall serve as the amended and restated Use Permit for the subject property. Resolution Nos. 5155, 3555, 5117, and 14-0063 shall no longer be in effect, however the facts and findings stated in Resolution No 14-0063 are incorporated into this Resolution by reference.
27. APPEAL. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
28. VIOLATION OF CONDITIONS: If within 45 days of this final approval the Use Permit is not complied with, the City may initiate revocation or modification proceedings. 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.
29. Terms and Conditions are Perpetual; Recordation of Covenant. The provisions, terms and conditions set forth herein are perpetual, and are binding on 900 Club/Downstairs Bar, their respective successors-in-interest, and, where applicable, all tenants and lessees of 900 Club/Downstairs Bar. Further, 900 Club/Downstairs Bar shall record a covenant indicating its consent to the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The covenant is subject to review and approval by the City Attorney, 900 Club/Downstairs Bar shall deliver the executed covenant, and all required recording fees, to the Department of Community Development within 30 days of the adoption of this Resolution. If 900 Club/Downstairs Bar fails to deliver the executed covenant within 30 days, this Resolution shall be null and void and of no further effect. Notwithstanding the foregoing, the Director may, upon a request by 900 Club/Downstairs Bar, grant an extension to the 30-day time limit.
30. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* 900 Club/Downstairs Bar shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and

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those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. 900 Club/Downstairs Bar 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. The City shall promptly notify 900 Club/Downstairs Bar of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify 900 Club/Downstairs Bar of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, 900 Club/Downstairs Bar shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. 900 Club/Downstairs Bar shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require 900 Club/Downstairs Bar 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 approval, the City shall estimate its expenses for the litigation. 900 Club/Downstairs Bar 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. The Secretary shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the applicant. The Secretary shall make this resolution readily available for public inspection.

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on March 14, 2018 and that said Resolution was adopted by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Anne McIntosh
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

EXHIBIT B

Proposed redline strikeout conditions- Planning Commission 3-14-18

900 Club

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

Operational

- 1. The project shall be in substantial conformance with the project description submitted to, and approved by the Planning Commission on March 14, 2018 as amended and conditioned. Any substantial deviation from the approved project description, as conditioned, shall require approval from the Planning Commission.
- 2. In the event that the businesses known as 900 Club and Downstairs Bar should vacate the premises, either or both tenant spaces at 900 Manhattan Avenue, may be occupied by another similar use; if, upon its review, the Department of Community Development determines that the replacement use has the same use characteristics as 900 Club and Downstairs Bar, including but not limited to, type of service provided, and peak hours of activity.

2.3. 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

3.4. 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.~~

4.5. 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.

5.6. 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, [directing patrons exiting both establishments to wait for ride-hail services on Manhattan Avenue](#) and [addressing](#) any other adverse impacts on the neighborhood.

~~6.7.~~ 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.

8. 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 9th Street entrance for access to the first floor and the door shall remain closed when not in use. [The downstairs windows on Manhattan Avenue and 9th Street shall be closed daily after 10:00 pm.](#)

~~7.9.~~ 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 9th Street.

~~8.10.~~ 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 9th 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.

~~9.11.~~ 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.

~~10.12.~~ 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 ~~18-24~~ days per year. Entertainment is not permitted downstairs. 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 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th 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.

~~11.13.~~ 14.13. 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 ~~1824~~ 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 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th Street a minimum of 7 days prior to such entertainment.

~~12.14.~~ 14.14. 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.

~~13.15.~~ 14.15. Three parking spaces shall be maintained on-site at the rear of the building.

~~14.16.~~ 14.16. Required access and exits shall remain unobstructed at all times in compliance with Fire and Building requirements.

~~15.17.~~ 14.17. The occupancy limits stated below shall not be exceeded and are required to be posted on-site downstairs and upstairs respectively at all times:

Downstairs Bar (downstairs) – 31

900 Club (upstairs) – 92

~~16.18.~~ 14.18. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. New signage stating that smoking is prohibited

and occupants need to be respectful of neighbors shall be posted near the downstairs exit, subject to review and approval of the Director of Community Development.

19. An on-site manager shall be available at all times to actively address noise and other issues, be responsive to neighbors, and manage unruly patrons.

20. The operator shall provide the list of conditions for the business to all employees when they are hired and trained, include them in any employee handbook and make sure they are physically available at the bars both upstairs and downstairs.

17.21. All of the following noise mitigation measures, that have not yet been installed, 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 9th 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 9th Street on the second floor.
- f. The downstairs windows on Manhattan Avenue and 9th Street and the 9th Street door downstairs shall be closed daily after 10:00 pm.
- g. A self-closing mechanisms shall be affixed to the downstairs 9th Street door.
- h. Signage related to “no smoking and respecting neighbors” as described in condition #15.

18.22. 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. 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 Management shall undertake and implement all reasonably necessary techniques to prevent loitering, unruliness, boisterous activities of patrons and limit all activities to comply with the City's Municipal Noise Ordinance.

19.23. The Community Development Department staff shall be allowed to inspect the site at any time. Management shall provide the Police, Fire, County Health Departments and the Alcoholic Beverage Control (ABC) with the key pad code for access any time.

Management shall contact the Police Department the first of every month to advise of any key access code changes.

Procedural

~~20.~~24. 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.

~~21.~~25. 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 Amendment for compliance with all conditions.

~~26.~~ This Resolution shall serve as the amended and restated Use Permit for the subject property. Resolution Nos. 5155, 3555, 5117, and 14-0063 shall no longer be in effect; however the facts and findings stated in Resolution No 14-0063 are incorporated into this Resolution by reference.

~~22.~~27. APPEAL. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.

~~23.~~28. VIOLATION OF CONDITIONS: If within 45 days of this final approval the Use Permit is not complied with, the City may initiate revocation or modification proceedings. 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.

~~29.~~ Terms and Conditions are Perpetual; Recordation of Covenant. The provisions, terms and conditions set forth herein are perpetual, and are binding on 900 Club/Downstairs Bar, their respective successors-in-interest, and, where applicable, all tenants and lessees of 900 Club/Downstairs Bar. Further, 900 Club/Downstairs Bar shall record a covenant indicating its consent to the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The covenant is subject to review and approval by the City Attorney, 900 Club/Downstairs Bar shall deliver the executed covenant, and all required recording fees, to the Department of Community Development within 30 days of the adoption of this Resolution. If 900 Club/Downstairs Bar fails to deliver the executed covenant within 30 days, this Resolution shall be null and void and of no further effect. Notwithstanding the foregoing, the Director may, upon a request by 900 Club/Downstairs Bar, grant an extension to the 30-day time limit.

~~30.~~21. Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City. 900 Club/Downstairs Bar shall defend, indemnify, and hold harmless 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”) from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys’ fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City’s environmental review thereof. 900 Club/Downstairs Bar 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. The City shall promptly notify 900 Club/Downstairs Bar of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify 900 Club/Downstairs Bar of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, 900 Club/Downstairs Bar shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. 900 Club/Downstairs Bar shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require 900 Club/Downstairs Bar 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 approval, the City shall estimate its expenses for the litigation. 900 Club/Downstairs Bar shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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

TO: Planning Commission

FROM: Anne McIntosh, Director of Community Development

THROUGH: Laurie B. Jester, Planning Manager

BY: Jason Masters, Assistant Planner

DATE: February 28, 2018

SUBJECT: Proposed amendments to the Use Permit for the 900 Club for a change in hours of operation and changes to the Entertainment Permit requirements, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar)

RECOMMENDATION

Staff recommends that the Planning Commission conduct the continued public hearing, accept additional testimony, close the public hearing and direct staff to prepare a resolution approving the request in part with or without additional conditions as follows:

- 1- Remove the last sentence related to “last call” of Condition #1 from Resolution No. 14-0063: “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...”. Provide direction on the portion of the condition that states “... all music shall be off 30 minutes prior to closing time.”
- 2- Increase the number of events that require an entertainment permit from 18 to 24 annually.
- 3- Consider additional conditions that provide noise mitigation in the Downstairs bar.

PROJECT BACKGROUND

At the January 24, 2018, Planning Commission meeting the Commission received public input in support and against the subject Use Permit Amendment request. Some of the public comments noted the improvements the 900 Club has made over the past several years in their effort to comply with restrictions imposed in Resolution No. 14-0063. However, speakers also mentioned that there have been continued problems with the Downstairs Bar, particularly regarding noise and loitering.

Based on the public testimony, the Planning Commission concluded that the impacts from the private club operation in the upstairs area appeared to have negligible impacts on the surrounding area. Rather than extend the operating hours as requested, the Commission agreed to remove the last sentence or a portion of the sentence of Condition #1 from Resolution No. 14-0063 which limits last call to one hour prior to closing. Further, the Commission was receptive to increasing

the number of entertainment permits to 24 days per year but only with the notification requirement.

The Commission continued the public hearing open to February 28, 2018, and directed staff to convene a meeting with neighbors and the applicant to discuss additional measures that could be taken to reduce impacts of the Downstairs Bar on the surrounding community.

City Staff including Department Director Anne McIntosh and Assistant Planner Jason Masters organized two meetings at the 900 Club and Downstairs Bar; first with City staff and the applicant, and secondly with Staff, the applicant and seven residents.

DISCUSSION

Staff met at the subject property with the applicant on January 31, 2018 to tour the Club and Downstairs bar area, and to discuss potential operational improvements.

A meeting was held on February 20th at the Downstairs bar with staff, the applicant and seven residents. The primary concern is noise emanating from the Downstairs Bar, as well as loitering, and overcrowding. Staff noted that the “Maximum Occupancy” sign was not prominently displayed at the Downstairs Bar. Accordingly, regardless of any revisions or amendments to the Use Permit, the applicant must post an occupancy sign in a prominent location, and adhere to said occupancy limits for the Downstairs Bar.

The owner did not offer to undertake any further measures to mitigate the impacts on the neighborhood. He feels that propping the side door open with a rock rather than keeping it wide open, and stationing a security guard there is adequate.

This location is particularly challenging because it is at the edge of the commercial area as it transitions to a residential neighborhood. The City can ensure that physical alterations to the property can be made, and can seek the cooperation of the business owner to be responsible in enforcing operational conditions, but it is harder to regulate people’s behavior. To the extent that patrons congregate on nearby streets or use car alarms, or make phone calls as they arrive and depart, or smoke in violation of the City’s no smoking law – all of these impacts are a sheer result of having a late night bar in this location. It is simply not an ideal location for the use.

Based on the discussion and suggestions made by the neighbors, staff believes that the only way to allow the Downstairs Bar to remain a bar and mitigate noise impacts on the surrounding neighborhood is to impose restrictions on the operation of the Downstairs bar including a combination or all of the following:

- Ensure that there is an on-site manager at all times that will actively address noise issues, be responsive to neighbors, and manage unruly patrons.
- Provide the list of conditions on the business to all employees when they are hired and trained, and include them in any employee handbook and make sure they are physically available in the bar.
- Prohibit use of the 9th Street door except in the case of emergencies and ADA access – could be after 10 p.m. or permanently.

- Hire an acoustical engineer to evaluate adding acoustical buffering to the ceiling and walls.
- Require windows to be kept shut during the later nighttime hours, possibly sometime after 8 p.m. or later, or replace with solid glass.
- Limit occupancy
- Impose an earlier closing time
- Continue to prohibit amplified entertainment as required by the existing Use Permit
- Require a security guard on 9th Street as required by the existing Use Permit (COA #3) for late nights, Special Events and Amplified Sound, and to direct patrons to Manhattan Avenue for ride pick-up
- Consider requiring a one year review of the application

If the Commission feels this business should not have any noise impacts on the neighborhood, then a combination of these measures must be considered. An enforcement strategy would also be implemented to ensure that the measures are being followed and are effective. The operator will not undertake these measures voluntarily.

Public Comments

A public notice for tonight's hearing was published in the Beach Reporter on January 11th, and mailed to all property owners within a 500' radius, since the Public Hearing was continued to the February 28, 2018 meeting, no additional no Public Notice was required. As of the writing of this report, staff has received several phone calls regarding the subject Use Permit Amendment and one letter commenting on the application (Exhibit D).

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.

CONCLUSION

Staff recommends that the Planning Commission conduct the continued Public Hearing, accept additional testimony, close the Public Hearing and direct Staff to prepare a Resolution approving the request in part with or without additional conditions.

EXHIBITS:

- A. Minute Excerpts- January 24, 2018
- B. Staff Report and Attachments from January 24, 2018 Planning Commission meeting
- C. Late Public comments from January 24, 2018 Planning Commission meeting
- D. Public Comment

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**ATTACHMENT A
PC MTG 2-28-18**

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JANUARY 24, 2018**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 24th day of January, 2018, at the hour of 6:00 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Burkhalter, Fournier, Morton, Seville-Jones, Chairperson Apostol
Absent: None
Others Present: Anne McIntosh, Director of Community Development
Laurie Jester, Planning Manager
Eric Haaland, Associate Planner
Angelica Ochoa, Associate Planner
Jason Masters, Assistant Planner
Erik Zandvliet, Traffic Engineer
Michael Estrada, Assistant City Attorney
Rosemary Lackow, Recording Secretary

****COMPLETE EXCERPTS FOR 900 CLUB ITEM****

01/24/18-4. Proposed Amendments to the Use Permit for the 900 Club for a Change in Hours of Operation and Changes to the Entertainment Permit Requirements, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar)

Chair Apostol announced the public hearing and invited staff to present the staff report.

Director McIntosh advised that the numbering of the Staff Report should be 1-26, not 1-268 pages and she noted late comments received and advised that the Commissioners disclose their receipt of materials and reading or viewing of such, including photos, emails, video clips, etc. All Commissioners disclosed their receipt of such and that they looked at or read all items.

Assistant Jason Masters gave the Staff Report with aid of slides. The topics covered included: the project site details, neighboring and nearby uses, use permit history and City Council approval (Res. 14-0063 and COA's), proposed amendments to the Use Permit, public notification and comments received and the Staff recommendation to: conduct the public hearing, review the proposed amendments and direct Staff to prepare a Resolution for review and approval at a future meeting.

Chair Apostol invited the Commission to ask questions of staff.

In response to Commission questions Assistant Planner Masters informed that: **1)** Staff is not clear on the number of Entertainment Events that have been held at the 900 Club since the last Use Permit (UP) approval because required notification has not occurred and recommends that the Commission ask the applicant to explain why an increase from 18-24 annually for such events should be granted (Morton); **2)** Staff recommends that notification be required to nearby residents and City departments including the MBPD Watch Commander. The PD recommendation is that there be no changes in the conditions and obligations

of the business but the planning staff advises that the PD input should be taken to mean not so much that it is recommending **against** the application, as much as they are not recommending **for** it. Staff advises that the Commission look at all aspects of the operation, Police safety as well as land use related issues, and then weigh all input (Morton); **3**) there are a few other restaurants in the downtown that are allowed to stay open till 2:00 a.m. (Arthur J's, Ercole's, Hennessey's, MB Pizzeria, Sharks Cove and Shellback) but the 900 Club has never had an explicit Use Permit allowed closing time as late as 2:00 a.m. (only as late as 1:30 a.m.) – rather in 2014 the Use Permit had a condition that established a time limit for a bar “last call”. The applicant is now asking that “last call” be allowed as late as 1:30 not 12:30 a.m. (Fournier); **4**) since land use rights “run with the land” all of the existing businesses mentioned with late closing hours are older. The Planning Commission has not approved any UPs in the last 5-10 years with a 2:00 a.m. closing and only one (Shark's Cove) in the last 20 years (Seville-Jones).

There being no further questions, Chair Apostol invited the applicant to address the Commission.

Albro Lundy, attorney representing the 900 Club owner, provided some background and emphasized that their request is to get back their full operating hours that were lost in the 2014 review, and their original entitlement dates back to 1995. They have operated with the assumption that if they installed all mitigation measures (which costed \$73,000) and addressed complaint issues - that longer hours would again be possible. He also emphasized that the business is a private club and its clientele is mainly local and many are families and at the 2015 One-Year Use Permit review there was no opposing public input. He acknowledged that noise can escape if windows or a door inadvertently is opened so this can be an issue but this has happened on very few occasions.

Dave Rohrbacher, business owner/operator, vows to try every day to make his business a good member of the community. He feels that he has made significant progress and his business provides “a little bit of heaven” for its 642 members fitting the demographics of 40 – 80 years old.

Mr. Rohrbacher fielded questions from the Commission.

Mr. Rohrbacher assumed responsibility for not communicating with the City as strictly required, explaining that he thought he only needed to notify the City when live entertainment was provided for groups with greater than 50 attending. The limit of 18 Entertainment Events imposed in 2014 was a decrease from 150 previously and so at this time they would like to increase to 24 Entertainment Events. He clarified that within the last 2 years, they have had about 18 Entertainment Events per year. He had misunderstood that if he had live entertainment typically for less than 40 people that that would be incidental to the “club” operation and typically the club operation has minimal music like on Friday's for a couple of hours. He has found that many neighbors do not want to have him knock on their door to notify of something so minimal. Previously, when 150 Events were allowed, they were actually having about 24 per year so this is what they want to get back as being permitted in the Use Permit. Where he may have become indifferent is when he had light entertainment such as acoustic music and with 40 or fewer persons, the event was more just like “a night at 900”.

At the Commission's request, Director McIntosh provided information as to the definition of an Entertainment Permit noting that there are 2 categories: “Special events” (gatherings of more than 50 persons with a contract for exclusive use of the second floor) and “Entertainment” where entertainment such as music, performers or amplified sound whether or not live or recorded (but not background recorded music) is provided and there could be more or less than 50 persons attending. Currently the 900 Club Use Permit allows 6 “Special Event” and 18 “Entertainment Events”. Both require the owner to notify the City as well as the neighbors. Assistant Planner Masters provided more detailed clarifications. An example of a Special Event would be where a party has rented the Club for a Bar Mitzvah or wedding where more than 50 are attending and they may or may not provide live or other entertainment and as stated, the 900 Club

currently can have 6 of these per year. However an Entertainment Event (18/year allowed) could have less than 50 people but with entertainment (broadly defined in the Muni Code) such as a comedian, a band, or a deejay, however 10 people present with a radio playing is NOT an Entertainment Event.

To further clarify, Mr. Masters explained that in a situation where there are 10 persons present, but the radio is cranked way up, this still would qualify as “Entertainment Event” subject to enforcement of the number of allowed Events.

There being no further questions of staff, Chair Apostol opened the public hearing and invited input noting that there is a 3-minute speaking limit.

PUBLIC HEARING

The following testified **in favor** of granting the UP amendment:

Chad Eppeneer, 9th and Bayview, club member and living Downtown he expects noises and has two young kids, and he believes 900 should be able get more hours back. He is also the block captain.

Denise Eppeneer (spelling?), same address, echoed Chad’s supportive comments.

Brad Sherman, neighbor of 900 Club and the previous speakers, states that the business has a “family atmosphere” and is an important part of the community.

Tony Barberi, resides at 729 33rd Street now, but for 12 years lived in the 400 block of 9th Street, are Club members, have five children and enjoy being able to get away to the club and enjoy a “date night”; noting it is not typically packed, nor loud.

Holly Barberi, who also resides at 729 33rd Street, added that they strongly support giving back 3 hours per week to the Club and noted that when they attend at a late hour, they always use the front door on Manhattan Avenue. It is quiet and there are always friends you know there.

Michael Zislis, business owner and resident, has known the owner for 27 years, and believes that sound mitigation can be effective, and this business has done all required mitigations and deserves the chance to regain their lost hours, which is really minimal (3 total) and the current “last call” condition is unusually stringent and difficult especially as it’s so difficult to operate a business.

Chandra Shaw, 512 4th Street, past president of Downtown Business and Professional Association when 900 Club went through the Use Permit Revocation process in 2014, and is also an owner of a downtown business. She believes the Club is a strong member of the community, they invested a lot in mitigation, have a clean record and urges that it be allowed to regain lost operating hours.

Chris Page, 900 Highland Ave. and the youngest 900 Club member, is also a local business owner, believes that the request is a minimal increase and the use is worth supporting. Crime is not an issue with this application.

Rick Buckley, 228 8th Street, believes there is a lot of confusion in understanding what is “Live Entertainment” vs. Special Events, and what needs to be regulated.

David Bohnert, 621 MB Boulevard, is in the entertainment business and is a Club member who brings clients to the Club and thinks the owner is doing a great job, it is a family place.

Dawn Leffler, employee for 12 years at 900 Club, and city resident is speaking for all of the 18 staff; stated that having to have such an early last call negatively impacts the staff as revenue is lost.

The following persons spoke regarding **specific issues or against** the application:

Martha Andreani, life-long downtown resident, believes some “clean up” is needed in the Use Permit, and it should be recognized that there are two businesses - the upstairs club which is private and the downstairs bar which is open to the public. She lives within 500 feet of the Club and has heard noise mainly coming from the downstairs bar. She opposes the extension of the regular operation hours and supports only extension in the number of special and entertainment events because this location is at the south edge of the downtown commercial district and very close to residential.

Don McPherson, 1014 1st Street, supports removing the “last call” provision and also believes that staff has erroneously classified this application under CEQA as a “Class I” categorical exemption in that this is a “non-negligible” project and therefore requires CEQA analysis. He also believes it a significant fact that the City has not approved a new bar since 1990 and he urges that the Commission not open up the bar operating hours as this may serve as an invitation to other new alcohol service uses.

William Victor, resident and owner of property within 500 feet of the Club, believes that the staff report contains errors and believes that even though noise buffers have been installed, the windows are still able to be opened which can cause noise to escape. The community does not want party houses or businesses, it is a bad noisy place and believes that the input from the Police should be interpreted as opposed to the application.

Rosanna Libertucci, 200 block of 9th, cited a neighbor’s comments that legitimate noise complaints from neighbors have been made and gone unresolved, and as of today she received information from the Police Department that it has responded to 11 noise complaints at the Club coming from the downstairs bar. She cited a neighbor’s video clip that has been submitted. She has a good relationship in working with the owner, but the downstairs remains a problem in that the door is often open and often people congregate there. The upstairs and back door has seen a big improvement.

Mark Tuccinardi, 55 year resident, has experience operating restaurant with nightclubs and entertainment and is not opposed to the owner making a profit but believes the Club is in violation of its CUP by not filing notifications; agrees that the downstairs bar is the main problem and cited 7 letters including from a full block away that oppose the application and video clip evidence. He indicated comments that as soon as the Police leave the front door on Manhattan Avenue is reopened. The downstairs is the main nuisance source at this time, the upstairs if OK.

Seeing no one wishing to speak, Chair Apostol closed the public hearing and invited the Commission to discuss the application.

COMMISSION DISCUSSION

Commissioner Seville-Jones led off, noting that one important issue is that the upstairs is very different from downstairs which seems to be the source of many problems.

Staff informed that the Use Permit can contain separate operational requirements for both areas but currently the operational conditions including hours pertain to the entire building and business.

Commissioner Fournier recalled the 2014 hearing which he attended and was saddened by its divisiveness and the lack of follow-up since. He believes the Police input is very important and feels the Watch

Commander is very experienced but doesn't want to fight civil battles. He is concerned about inaccuracies and that he feels residents seem afraid to lodge complaints and he questions whether conditions have really improved since 2014. Most disturbing is hearing that after lodging a complaint there is no response.

Commissioner Seville-Jones agrees that there has been significant testimony about the uses being different upstairs vs. downstairs and she has also heard that the owner has done a better job but she feels it is necessary to address the downstairs area issues (not sure what specific solutions are) and also is concerned that extending the operating hours simply to 2:00 a.m. would set a risky precedent. She advocates keeping the 1:00 a.m. closing but deleting the "last call" provision for upstairs.

Commissioner Burkhalter would like to see the "last call" provision eliminated and is struck by the vitriol expressed for the downstairs bar. He would like to explore having different requirements for the upstairs/downstairs and believes that mitigations would at this point more likely be operational not physical changes.

Commissioner Morton stated that Mr. Rohrbacher is a solid member of the community. There does not appear to be support for extending the hours, per se, but he would be in favor of clarifying and addressing the entertainment and obligations for the business more clearly, and he has concern regarding the input from the Police. The Club needs to notify all of entertainment and events. He would like to explore restoring some use but without extending the hours beyond what it has been historically – keep the hours the same as before but apply a more even standard with undue restrictions.

Chair Apostol thanked everyone who participated and can appreciation all the comments with sensitivity to the residents who have problems. He believes that the decision on this should strive to be fair and equal for all. He believes it a good point that the existing 2:00 a.m. closings for alcohol establishments were set 20 years ago; favors repealing the "last call" provision in that he believes such a limit is best left to the proprietor and because he believes that the owner had made a very positive effort there should be consideration for restoring the hours of operation to what it was in 2014.

Staff clarified: 1) if a site has significant problems, an Entertainment or Special Event Permit can be denied administratively – the Use Permit doesn't guarantee it will be approved; 2) Prior to 2014, like in 1994 they needed only approval for Special Events in accordance with the standard Municipal Code regulations that regulate entertainment. After 2014 special neighbor notification was required to the Police, Community Development Department and neighbors within a prescribed distance and a specific number events were allowed; 3) all restrictions in the 2014 Use Permit apply to the entire building, but the special entertainment provisions apply only upstairs (dancing, e.g. is not allowed downstairs).

Commissioner Seville-Jones feels strongly that the downstairs has not been addressed and she suggests that perhaps the residents and the owner could meet and discuss what can be done to improve the downstairs. She feels that this helped in the case of the Shade Hotel and can here too as long as folks meet in good faith to come up with solutions.

Director McIntosh advised that it would be reasonable to continue this item to allow the residents and owner to meet to discuss issues with the downstairs. After further discussion she suggested deleting the last sentence in condition one, Resolution 14-0063 pertaining to the "last call" provision.

Commissioner Morton stated he supports allowing up to 24 events and removing the "last call" provision.

COMMISSION ACTION

It was moved and seconded (Morton/Apostol) to direct Staff to prepare a revised Use Permit Resolution that

would revise the conditions in existing Resolution 14-0063 including deletion of the last sentence in condition one pertaining to “last call” and that would provide for an increase in the number of permitted events with entertainment from 18 to 24, as appropriate in the conditions.

Discussion followed on the motion.

Commissioner Seville-Jones stated she would vote “no” on the motion because it is missing an opportunity for neighbors and the owner to come up with an agreed on solution for controlling the downstairs. Commissioner Fournier would like to see the owner (who now owns the downstairs while he didn’t in 2014) come up with some way of addressing the downstairs and have the action of the Commission continued.

Director McIntosh pointed out that as long as the item is being continued, then further revisions to the resolution are possible both to the upstairs and downstairs. It is recommended however that if more information or testimony is needed then, it would be appropriate to reopen the public hearing to allow more testimony and additional noticing may be required. This would also not preclude more discussion and conditions for the upstairs.

There was a call for the question and a vote was taken on the pending motion as originally stated:

Roll Call:

AYES: Morton, Chairperson Apostol
NOES: Burkhalter, Fournier, Seville-Jones
ABSENT: None
ABSTAIN: None

The motion having failed, a new motion was made and seconded (Seville-Jones/Fournier) to reopen and continue the public hearing to February 28th and with direction to Staff to work with the applicant who is to work with the neighbors, to explore possible solutions for addressing impacts emanating from the downstairs as well as upstairs and that Staff to bring back a draft Resolution that would delete the provision for “last call” as in condition one of Resolution 14-0063 and expand the number of events with entertainment from 18 to 24.

Roll Call:

AYES: Burkhalter, Fournier, Morton, Seville-Jones, Chairperson Apostol
NOES: None
ABSENT: None
ABSTAIN: None

Director McIntosh announced that the motion has carried.

**ATTACHMENT B
PC MTG 2-28-18**

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

TO: Planning Commission

FROM: Anne McIntosh, Director of Community Development

THROUGH: Laurie B Jester, Planning Manager

BY: Jason Masters, Assistant Planner

DATE: January 24, 2018

SUBJECT: Proposed amendments to the Use Permit for the 900 Club for a change in hours of operation and changes to the Entertainment Permit requirements, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar)

RECOMMENDATION

Staff recommends that the Planning Commission conduct the public hearing, review the existing use permit and provide direction to prepare a Resolution approving with modifications and conditions amendments to Resolution No. 14-0063 (Attachment A) as follows:

- 1- Reinstate previously approved hours of operation, by increasing business operations by one hour on Thursday nights from 12:00 am to 1:00 am, and Friday and Saturday nights from 1:00 am to 2:00 am, and
- 2- Increase the number of events that require an entertainment permit from 18 to 24 annually.

PROJECT BACKGROUND

City Council Resolution No. 14-0063 (Attachment A) 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 through the Use Permit revocation process 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, on October 7, 2014 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 included 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.

On December 9, 2015, the Planning Commission held a Public Hearing for the one-year review of 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. At that time, the Planning Commission felt that the applicant had complied with all conditions of approval, and no further annual review, or conditions were warranted.

Since that time, the applicant submitted a Use Permit Amendment to return to some of the hours which had been previously reduced by the City Council in 2014. Specifically, the applicant is requesting increasing operating hours by one hour on Thursday nights from 12:00 am to 1:00 am, and Friday and Saturday nights from 1:00 am to 2:00 am, in addition to proposed changes to the Entertainment Permit requirements including eliminating the neighbor notification requirements prior to all events, and increasing the number of events that require an Entertainment Permit from 18 to 24 annually. The applicant would notify the Police and Community Development Departments, as required but would like to remove the requirement to notify residents in the immediate area as required by the conditions of approval.

City Staff has worked with the applicant during the past two years to finalize the proposed amendments, and gather information regarding complaints or violations received.

LOCATION

The subject property is located at 900 Manhattan Avenue, the northeast corner of 9th 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

Proposed Conditions (Exhibit B)

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

Condition No. 1

Proposed Hours of operation

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

Monday - Wednesday	11:00am to midnight- (no change)
Thursday	11:00am to 1:00am- (one additional hour)
Friday	11:00am to 2:00am- (one additional hour)
Saturday	9:00am to 2:00am- (one additional hour)
Sunday	9:00am to midnight- (no change)

Existing Hours of operation

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

Currently, 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. The applicant is not requesting any change to this portion of the condition.

Condition No’s. 9B and 10 Entertainment Permit and Special Events

The 900 Club is required to submit an Entertainment Permit annually. The applicant is requesting that the number of Entertainment occurrences, which includes music, live entertainment, performers, and amplified sound, but not background music, be increased from 18 to 24 days per year. Additionally, 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. If entertainment is proposed for a Special Event, the day of the Special Event shall be included in the maximum allowable 18 days of Entertainment per year.

The Business Operator is required to provide written notification of each entertainment occurrence to the Director of Community Development, the Police Department and each residence located on 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th Street, a minimum of 7 days prior to the Entertainment or Special Event. The applicant is requesting that they no longer be required to notify the neighbors, but retain City notification.

Compliance with Conditions

Staff conducted a follow-up site visit on January 17, 2018 to verify compliance with the conditions of approval of the Resolution. During the site visit, it was determined that the property owner remained in compliance with all conditions related to improvements on the site.

The Business Owner has submitted the required Entertainment Permit over the past years, however, the Business Owner is also required to provide the City with written notification of “Entertainment” and “Special Events” respectively. The City has no record of being 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 entertainment and events, however the list had not been received as of the distribution of this report.

The Code Enforcement Officer has received two phone calls over the past two years from a neighbor who asserted 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 Public Hearing for the one year review on December 9, 2015, the Police Department has responded to the 900 Club eight (8) times. One call was related to a verbal argument inside the club, and two were noise disturbances. The remaining five were unrelated to the club. The calls did not indicate if the incident reported was upstairs or downstairs. The Police are opposed to any changes on the site (Exhibit C).

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 in one noise disturbance call, the establishment left the back door open around 12:30 am in violation of Condition No. 4 that requires the door to remain closed after 10:30 PM..

Public Comments

A public notice for tonight’s hearing was published in the Beach Reporter on January 11th, and mailed to all property owners within a 500’ radius. As of the writing of this report, staff has received two phone calls expressing concerns regarding the subject Use Permit Amendment and one letter objecting to the revisions (Exhibit D).

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.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, review the proposed use permit amendments and direct staff to bring back a Resolution approving the proposed amendments to hours of operation, increased number of entertainment events per year, and uphold existing entertainment event notification requirements as provided for in the attached redline-strikeout document which provides a list of possible conditions of approval (Attachment B). The highlighted revisions are not recommended.

EXHIBITS:

- A. City Council Resolution No. 14-0063
- B. Proposed redline strikeout conditions
- C. Police comments
- D. Neighbor comments

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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.

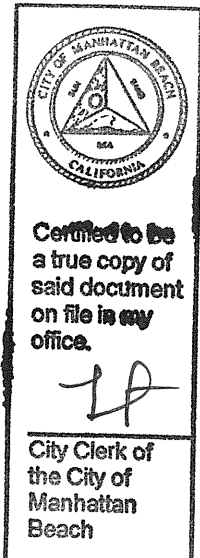
Section 2. In reliance on the entitlements conferred by Resolution No. 5155, the Business Operator established a private club ("900 Club") in the upstairs of the premises and a restaurant/bar, open to the public, downstairs on the premises.

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:



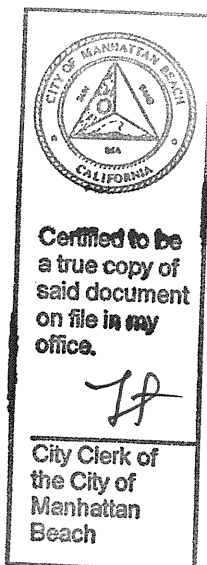
**EXHIBIT A
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- a. Generated excessive noise that disturbed the peace and quiet of the neighborhood.
- b. Operated after closing hours, in violation Resolution No. 5155 Condition No. 1, as documented by Police Department Reports #13-780, #13-1289, and #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.

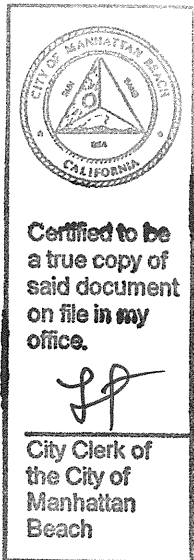
Section 10. On May 27, 2014, Don McPherson (the "Appellant") filed an appeal of the Planning Commission's decision to modify the Use Permit, requesting that the City Council consider additional conditions. The Appellant and his attorneys of record supplemented the appeal with additional written material.

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



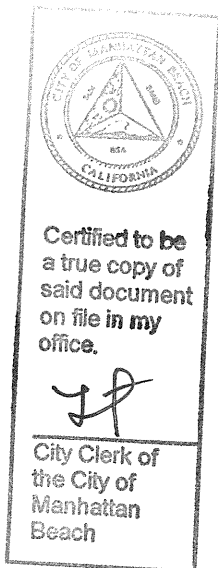
made by the Planning Commission in support of this modification.

- 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.

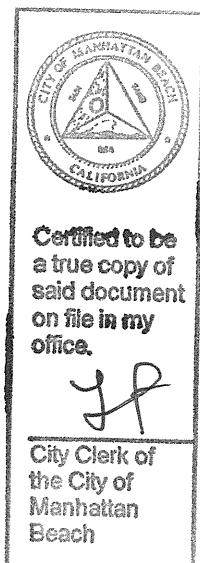
- The service of alcohol shall occur in conjunction with food service as a "bona fide eating place" type of alcohol license (Type 47) from the State of California shall be maintained.
- The Business Operator's representatives shall provide a state licensed, bonded and certified security guard from 9:30 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 9th 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 9th Street.



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- 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 9th 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 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th 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 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th 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

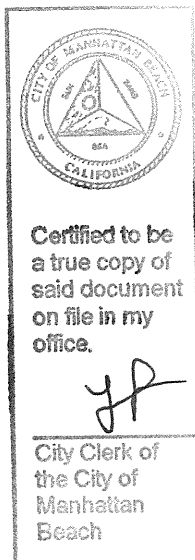
- 15. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.
- 16. The following noise mitigation measures shall be installed within 45 days and maintained at all times:
 - a. Tempered glass panels installed over each upstairs stained 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 9th 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 9th 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



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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 7th 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)



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**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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EXHIBIT B

Proposed redline strikeout conditions- Planning Commission 1-24-18

900 Club

Condition No. 1 - Hours

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

Monday - ~~Thursday-Wednesday~~ 11:00am to midnight

~~Thursday 11:00am to 1:00am~~

Friday 11:00am to ~~12:00am~~

Saturday 9:00am to ~~12:00am~~

Sunday 9:00am to midnight

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 ~~18-24~~ days per year. The Business Operator shall provide written notification of the proposed Entertainment to the Director of Community Development, ~~and~~ the Police Department ~~and each residence located on 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th 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 ~~1824~~ 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, ~~and~~ the Police Department ~~and each residence located on 9th Street between Highland Avenue and Manhattan Avenue and Bayview Drive between 9th Street and 10th Street~~ a minimum of 7 days prior to such entertainment.

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

TO: See distribution below
FROM: Karen Arguelles, Administrative Clerk
c/o **PLANNER Jason Masters**
DATE: August 25, 2017 (Submitted 8/17/17)
SUBJECT: Review Request for Proposed Project at:

900 Manhattan Ave (900 Club)

Use Permit Amendment/ Environmental Assessment

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

If no response is received by **THURSDAY, SEPTEMBER 7th, 2017** the Project Planner will conclude there are no conditions from your department.

Comments/Conditions (attach additional sheets as necessary):

*OPPOSED TO ANY CHANGES AT THIS TIME
PD & CODE ENFORCEMENT (JACKIE HARRIS) HAVE
RECENTLY RECEIVED COMPLAINTS ABOUT THE LOCATION.
CV.*

**EXHIBIT C
PC MTG 01-24-18**

- Yes / No Building Division
- Yes / No Fire Dept. (M. Simkins)
- Yes / No Public Works (Mike G.)
- Yes / No Engineering (Prem Kumar)
- Yes / No Waste Mgmt (Anna Luke-Jones)
- Yes / No Traffic Engr. (Erik Z)

- Yes / No City Attorney
- Yes / No **Police Dept.:**
 - Traffic
 - Detectives
 - Crime Prevention
 - Alcohol License (Chris Vargas) *(CV)*

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Dear Honorable Planning Commissioners -

I object on behalf, my potential and current tenants to ~~the~~ and every request in its letter from attorney Lundy III - dated August 10, 2017 and ~~any~~ ^{any} ~~of~~ ^{of} its ~~hours~~ ^{hours}, ~~its~~ ^{its} ~~approval~~ ^{approval} of "entertainment events" and ~~the~~ ^{the} ~~proposed~~ ^{proposed} modifications of its use permit.

I further propose a REDUCTION of the Entertainment events to two (2) events per annum including New Year's Eve & 17th Ave.

The neighborhood including its undersigned does not need to be kept awake while listening to music that may not be their choice and very very loud voices and too often honking horns while the parties vomit with their cars or uber or whatever.

Please Deny the additional hours - the people in the community are normally not having hearing and deserve better considerations.

Fong is a successful restaurant and day 24 hour additional hours and has not a noisy destination.

Notes of the Grand Street event - ~~the~~ ^{the} ~~location~~ ^{location} ~~of~~ ^{of} all residents and ~~many~~ ^{many} on 9th Street between Manhattan Avenue and Ocean Drive.

Continuing to the pages filed the proposal has a distinct "import an aesthetic" as its "character" of the area. Also

the "character" of the area is not at all complete.

Thank you for your considerations -

William Victor ALAW Operator
39 Welles ✓
William Victor

RECEIVED
JAN 17 2018
BY: _____

EXHIBIT D
PC MTG 01-24-18

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Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 1:47 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: 2am closing hours for 900 Club

LATE COMMENTS
900 CLUB ITEM
PC MTG 01-24-18

From: Murphy/Perkins [<mailto:murphyperkins@gmail.com>]
Sent: Tuesday, January 23, 2018 6:04 PM
To: List - Planning Commission <PlanningCommission@citymb.info>; Anne McIntosh <amcIntosh@citymb.info>
Subject: 2am closing hours for 900 Club

The honky-tonking of Manhattan Beach continues. MB City staff seemed determined to turn our town into a late night party destination. The staff report says to ignore the MB Police recommendation that hours not be extended. Perhaps the police have a better understanding of the issues than city staff who are not called out at night to deal with the 900 Club.

Staff extols the Club for being in compliance and then admits that they did not comply with the requirement that the back door be closed. Doesn't seem like compliance to me. Nor do noise complaints seem like compliance. Nor does failing to notify the city as required about Special Events and Entertainment. Saying the 900 Club is in compliance seems like a falsehood that is in the staff report just so they can recommend giving the applicant what it wants.

Staff seldom sees mere residents. They deal with businesses who seek permission to make money in our city. Many of the applicants are very nice people I'm sure and staff probably bonds with them. They wish to give them what they are asking for. Neighbors whose sleep gets interrupted are hardly part of the equation when an applicant seeks a favor from the city.

The staff report suggests that "the goal of the City is to not receive any complaints..." Instead I would suggest that the goal of the city be to make our town a great place to live.

As planning commissioners you have the power and duty to help plan for the most livable town we can create. Please deny the request for longer hours and more "special" events that may impact the quiet enjoyment of our neighbors' homes.

Thanks,

Michelle Murphy

Anne McIntosh
Community Development Director

P: 310-802-5503
E: amcIntosh@citymb.info



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Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 2:14 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: Oppose 900 Club Extended Hours and Expanded Events

Anne McIntosh
Community Development Director
310-802-5503
amcIntosh@citymb.info
City of Manhattan Beach, CA

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

From: Neil Leventhal mt [<mailto:nl@lma-web.com>]
Sent: Wednesday, January 24, 2018 2:03 PM
To: List - Planning Commission <PlanningCommission@citymb.info>
Subject: Oppose 900 Club Extended Hours and Expanded Events

I am writing to oppose extension of closing time for the 900 Club, as well as the expansion of any special activities or events.

The City should be highly resistant to any expansion, extension or intensification of use or activity downtown, particularly when that use or activity falls outside of general retail and restaurant business hours.

In the specific case, in addition to ample historical evidence of issues, and the location at the very perimeter of the downtown commercial zone, which magnifies the impact on residences, there appears to be a substantial issue of accuracy, if not misdirection, in the representation that the closing time has been reduced from that of the original CUP.

The idea of extending or expanding hours or events directly contradicts:

- The objectives and direction of the General Plan and the Downtown Specific Plan
- The recommendations of the MB Police Department
- The interest of city and downtown residents
- The 900 Club CUP

Extending the hours would reward a history of issues, as well as the misrepresentation of that history and the original CUP.

In short, it contradicts all logic and reason. I urge you to not only deny this request, but also to consider and implement any additional constraints possible.

Thank you.

Neil Leventhal
128 13th St.
Manhattan Beach, CA 90266

NL@LMA-web.com
Cell: 310.600.5834

Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 1:48 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: OPPOSE : Agenda Item #7, 1//24/18 Extending Closing Hours, 900 Club

From: Carol Perrin [<mailto:cplaw28@gmail.com>]
Sent: Tuesday, January 23, 2018 2:37 PM
To: List - Planning Commission <PlanningCommission@citymb.info>
Cc: Anne McIntosh <amcIntosh@citymb.info>; Liza Tamura <ltamura@citymb.info>; Derrick Abell <dabell@citymb.info>; Chris Vargas <cvargas@citymb.info>
Subject: OPPOSE : Agenda Item #7, 1//24/18 Extending Closing Hours, 900 Club

Dear Planning Commissioners,

I am writing to **vigorously oppose** extending the closing hours for the 900 Club, for all of the following reasons:

1. Having an operating bar open until 2 am **violates the principals of MB** as a small town residential community.
2. The **negative impact** the extension of hours will have on our MB services, particularly our **police force** and **trash management** is significant.
3. Studies by LA County have shown that allowing extension of these type of hours by bars/restaurants leads to **increased crime rates** (both serious offenses and increased loitering, drug use, littering, etc), as well as **excessive noise levels** that can never be fully mitigated,
4. MB is not Hermosa (actually this would be more like NYC). We are a small residential beach town and once the door is open to a 2 am bar, **a precedent will be set**, and the entire **dynamic of MB will be detrimentally altered**.
5. The **police department** and the **downtown residents** who will be most effected and victimized by this change, **OPPOSE** this change.
6. The **900 Club NEVER** had a **2 pm closing time**, contrary to the staff report.

I thank you for considering this information.

Best,
Carol Perrin
312 17th Street

1.

--

Carol Perrin
cplaw28@gmail.com

Anne McIntosh
Community Development Director

P: 310-802-5503

E: amcIntosh@citymb.info



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Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 1:47 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: AGAINST - 900 Club 2am Closing Time

Anne McIntosh
Community Development Director

P: 310-802-5503

E: amcIntosh@citymb.info



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From: jacquelynemay@aol.com [mailto:jacquelynemay@aol.com]
Sent: Tuesday, January 23, 2018 5:00 PM
To: List - Planning Commission <PlanningCommission@citymb.info>
Cc: Anne McIntosh <amcIntosh@citymb.info>; List - City Council <CityCouncil@citymb.info>
Subject: AGAINST - 900 Club 2am Closing Time

Good afternoon,

As a longtime resident/owner of one of the homes bordering the Downtown area of Manhattan Beach, I'd would like to address the issue of the "reinstatement" of the CUP (addition of a 2am closing time) for the 900 Club.

My home is 2 blocks from this establishment. I have heard numerous serious complaints from my neighbors, but I just want to address noise and after hour issues. The one issue that affects us all, for blocks around, in a very stressful way, is ambient, though very, very loud, noise. The General Plan recognizes this.

One recent evening at about 12am, I heard very loud music coming from somewhere. Even though all of my neighbors are generally quiet.. it seemed like there was a party very close by. Turns out the music was coming from the 900 Club! I'm mostly deaf in one ear, can't hear that well out of the other ear, and recently had double paned windows installed. Typically only people walking by or hanging out under my bedroom window bother me. The music from 9th and Manhattan Avenue had to be outrageously loud to be able to hear it from here.

For those who do not live near this area, just imagine your neighbors hosting loud parties every Thursday, Friday and Saturday night (three to four hours past *their* noise cutoff time of 10 pm) then their visitors talking loudly while moving cars from next to your house, along with other related commotion I won't go into here. As you might imagine, people who need to get up early and go to work are especially adversely affected.

Please keep in mind that the downtown strip bisects a residentially zoned area, with no buffer zone. Many of us longtime homeowners have seen neighborhood businesses who have provided needed services, such as drug stores and variety stores, change to restaurants and drinking establishments. Predictably, this change in types of businesses so close to our homes brings with it unique issues and problems.

We all understand that people want to be by the beach and have a good time, but we trust that our City representatives will recognize that we live here 24/7 and can't escape some of the inevitable disruptions that come with consistent late hours and loud music, especially where there is excessive drinking. Please let us keep this a small town and not a party destination.

You are all public servants, volunteering your time, and I thank you for that. I hope you consider not only the inaccuracies in how this CUP was updated and written, but also how we are trying to preserve the integrity of our area as the wishes of other citizens in town who want to keep our downtown resident friendly as is specifically stated in the General Plan.

I hope the Planning Commission also respects the Police Department recommendation to deny any intensification and entertainment permits. Thank you!

Sincerely,
Jackie May
233 10th Street
310 374-4341

MB General Plan, excerpts:

"Vision

The beach and vast expanse of the Pacific Ocean draw many residents and visitors to Manhattan Beach. The sound of the ocean is refreshing and soothing. We enjoy relaxing where noise does not invade our thoughts and activities on Sunday morning or other times when we expect relative quiet. Excessive noise from traffic, business and industrial operations, construction, and concentrated activities can be disruptive and erode the quality of our community. Manhattan Beach strives to substantially reduce noise and its impacts within the urban environment, with a focus on protecting residential neighborhoods, schools, and similar noise-sensitive uses. "

Jacquelyne May (External)

P:
E: jacquelynemay@aol.com



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“Downtown Commercial

The Downtown Commercial category applies only to the Downtown, an area of 40+ blocks that radiates from the intersection of Manhattan Beach Boulevard and Highland Avenue. Downtown provides locations for a mix of commercial businesses, residential uses with discretionary review, and public uses, with a focus on pedestrian-oriented commercial businesses that serve Manhattan Beach residents. Visitor-oriented uses are limited to low-intensity businesses providing goods and services primarily to beachgoers..... “

"Protecting Residential Neighborhoods

Manhattan Beach is primarily a residential community. Intrusion of incompatible uses and activities can threaten the quality and integrity of our neighborhoods. Commercial uses typically generate traffic and noise. Businesses such as service stations and restaurants also generate odors. Some businesses have extended hours of operation or require deliveries during late night and/or early morning hours. Schools and public gathering places, including parks, can create traffic and noise impacts during specific periods or special events. Such secondary effects can erode the quality of a residential neighborhood and thus must be avoided if possible, or mitigated to the maximum extent feasible. "

Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 1:46 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: AGAINST - 900 Club 2am Closing Time

Anne McIntosh
Community Development Director

P: 310-802-5503

E: amcIntosh@citymb.info



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From: Kathy Clark [<mailto:kathymb2005@mac.com>]
Sent: Wednesday, January 24, 2018 8:26 AM
To: List - Planning Commission <PlanningCommission@citymb.info>
Subject: AGAINST - 900 Club 2am Closing Time

Good Morning Commissioners,

I am writing to request that you follow the recommendation of the Manhattan Beach Police Department and vote against the 2 a.m. closing time for the 900 Club at your meeting this evening. A 2 p.m. closing time will only attract really serious drinkers and people who like to party all night long. Living near the Downtown should be a property value asset rather than a liability. What good does it do to be able to easily walk Downtown, to the beach or have a beautiful ocean view if it is not possible to sleep through the night due noise from commercial parties. Please support our Police Department and residential property owners by voting against the extension of the closing time for the 900 Club to 2 a.m.

Kathy Clark

Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 1:46 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: AGAINST - 900 Club 2 a.m. closing time
Attachments: 7E62AE19-4FC7-49FE-9752-62BD8B2BA45E.m4v

Anne McIntosh
Community Development Director

P: 310-802-5503
E: amcIntosh@citymb.info



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From: Rosanna Libertucci - outlook email [<mailto:househuntsobay@outlook.com>]
Sent: Wednesday, January 24, 2018 8:49 AM
To: List - Planning Commission <PlanningCommission@citymb.info>
Cc: Derrick Abell <dabell@citymb.info>; Chris Vargas <cvargas@citymb.info>
Subject: FW: AGAINST - 900 Club 2 a.m. closing time

Was asked to forward this to the appropriate city officials prior to the meeting tonight - from Kelly and Tim King, residents at 800 Manhattan Ave.

From: Kelly King [<mailto:thekingpad@aol.com>]
Sent: Wednesday, January 24, 2018 8:12 AM
To: Rosanna Libertucci - outlook email <househuntsobay@outlook.com>
Subject: AGAINST - 900 Club 2 a.m. closing time

Hello,

We understand that the CUP has allowed for a 'reinstatement' of the closing time for the 900 Club to 2 a.m.. We are OPPOSED to this action.

We live on the corner of 8th and Manhattan Ave, 1 block from the 900 Club. The late night amplified music from the 900 club sounds like it's coming from inside our house and is a terrible nuisance each weekend.

We have made many calls to the MBPD to complain about the noise. In fact, we have them on speed dial it happens so often The 900 Club does not abide by any of the rules - the windows and doors are always open, no management or security at the doors, rowdy crowds congregate outside, and cars race down Manhattan Ave. when they leave the club. The police instruct them to 'shut it down' when we call. On one such occasion we witnessed the police arriving

after midnight, the club manager complied with the officers and closed the doors and windows, only to open all of them the minute the officer left! We had to call a second time that night. It is clear the 900 Club has no wish to follow any rules of permits, yet the PC continues to allow this to happen.

The Police department is against this reinstatement. I'm sure they wish they had no permit at all. I would hope that the PC would hear our first hand experiences and complaints with the noise from the 900 club. The Police have better things to do than deal with the noise that the city allows at this establishment.

We have video proof of the noise as it reverberates off every concrete structure on the block we live on, echoing loudly way past any normal noise restriction for Manhattan Beach (10 pm).

Please do not allow a reinstatement. It is only going to get worse.

Thank you,

Kelly and Tim King

Angela Soo

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 1:42 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: Against 900 Club "Increase" of Hours (not "reinstatement" as incorrectly stated in City Staff Report)

Anne McIntosh
Community Development Director

P: 310-802-5503
E: amcIntosh@citymb.info



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From: Mark Tuccinardi [<mailto:00tucci@gmail.com>]
Sent: Wednesday, January 24, 2018 1:32 PM
To: List - Planning Commission <PlanningCommission@citymb.info>; Derrick Abell <dabell@citymb.info>; Chris Vargas <cvargas@citymb.info>
Cc: Mark Tuccinardi <00tucci@gmail.com>
Subject: Fwd: Against 900 Club "Increase" of Hours (not "reinstatement" as incorrectly stated in City Staff Report)

To The Planning Commission,

The 900 Club continually violates their CUP. This goes on every weekend.

Attached please find 3 short video clips from late Saturday night turning into Sunday morning, on this past January 13th - 14th 2018. (taken from 12:20am to 12:45am plus there are many more weekend clips if desired)

They have turned the lower small club into a dance club. There is no food being served. The door is wide open. Patrons hooting and hollering. The doorman is standing outside chatting with patrons and not enforcing or mitigating patron noise and congregation on the sidewalk. Also they are required to have a professional, licensed and bonded security guard when there is music and obviously that is not being done.

Violations of Resolution 14-0063 (Most current CUP) include:

Item # 1 CUP - Music not off 30 minutes prior to closing. (typical behavior have many more clips just like for the past year)

Item #2 CUP – Not a bona fide eating place. The lower club on weekend nights is crammed packed and made into a dance club and no food is served to lower level later in the evening. (Unable to video this but viewed)

Item #3 CUP – No licensed, certified, security guard after 9:30pm with sound to ensure noise and doors closed and no loitering. (typical, they never have a security guard as required)

Item # 6 CUP – Music heard one long block in every direction. (Have all streets videoed and more clips)

Item #8 CUP – Dancing not permitted downstairs although they do each weekend as they turn into a dance club.

Item #9 CUP – Entertainment allowed on 2nd floor only. (entertainment is an activity that involves music) Special event notice not filed or notification of neighbors. (actually they never have filed although they occur multiple times each week)

Item #11 CUP – Noise emanating exceeds maximum noise standards per code.

Also, it seemed as if they were exceeding their occupancy limit downstairs.

[Download Attachment](#)

[Available until Feb 22, 2018](#)

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A762877B-A3D9-459D-8F1A-9E94DC626F57.MOV

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Mark Tuccinardi

800 block Bayview Drive

*Since 2001

Angela Soo

Sent: Friday, February 23, 2018 10:51 AM
Subject: FW: Against 900 Club - Violations & Attached photos with alcohol served outside this past Sunday

From: Anne McIntosh
Sent: Wednesday, January 24, 2018 3:07 PM
To: Jason Masters
Cc: Laurie B. Jester
Subject: FW: Against 900 Club - Violations & Attached photos with alcohol served outside this past Sunday

Anne McIntosh
Community Development Director

P: 310-802-5503
E: amcIntosh@citymb.info



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From: Mark Tuccinardi [<mailto:00tucci@gmail.com>]
Sent: Wednesday, January 24, 2018 3:05 PM
To: List - Planning Commission <PlanningCommission@citymb.info>; Derrick Abell <dabell@citymb.info>; Chris Vargas <cvargas@citymb.info>
Cc: Mark Tuccinardi <00tucci@gmail.com>
Subject: Against 900 Club - Violations & Attached photos with alcohol served outside this past Sunday

To The Planning Commission,

Wanted to let you know why none of the neighbors file complaints to the Police Department and Community Development.

Over the years my neighbors and myself have been harassed, intimidated, threatened, some told to "F off" and move if they don't like it," by the manager & members of the 900 Club! The most vocal neighbor in the past even had the

property damaged multiple times. I personally have been threatened and cussed out in front of my house. Neighbors truly do not feel safe and are afraid of retribution for speaking out. Most neighbors will not call the police anymore as they do not enforce the CUP and residents are made to feel like this is a waste of their time and it is an imposition. Sad state of affairs when a city does not "Protect and Serve" its residents, yet caters to bar/nightclub patrons that do not live in the immediate radius affected. What's wrong with this picture!?! Community Development starting with Richard Thompson and Laurie Jester blocked critical information from the impacted neighbors from being shared at the 2014 PC Revocation hearing. How they operated was unethical and deeply disturbing. There is no safe zone for the impacted neighbors to obtain any remedy.

Why is the Community Development staff even considering, ANY, proposal to modify and loosen the 900 Club CUP restrictions??? Again, the city is *seemingly* going out its way to reward illegal, nuisance, bad behavior by the 900 Club and adjoining Down Stairs Bar.

Why on earth would the Community Development Staff go against the recommendations of the Police Department, Code Enforcement Officer (Jackie Harris) and impacted neighbors?? These parties have first-hand experience in the field face to face with these issues for many years!!!!

There is overwhelming evidence on record showing a blatant, intentional, consistent, pattern of excessive CUP violations since 2004, shortly after opening. It appears the records history is not being well researched. See the video from PC Revocation hearing 2/26/2014 where one commissioner with a sharp awareness, understanding of the issues states that the 900 Club seems to have 2 main problems and one is it operates as a different type of establishment after closing hours, the second is you (directing his comments to Dave Rohrbacher).

The city PC would be the wiser to not fall for the picture painted by the 900 Club management; full of lies and deception. The 900 Club does not need to extend its hours to make their business viable, it's not open to the public, it's a private club and they can charge members what they want. To extend any hours for the Down Stairs Bar is simply going to continue the same bad - nuisance behavior further into the wee-morning hours.

To the point, the 900 Club/Down Stairs Bar is "currently; exceeding the City noise ordinance, leaving the windows and doors open with live entertainment, DJ's and amplified music. Throughout the year they have outdoor BBQ's and other food events on rear parking lot on Bayview Drive where members are drinking alcohol outside. All of which are violations of their existing CUP, Health Department and ABC.

See photos below of beer bottles on table outside from this past Sunday and BBQ trailer serving food. Clear violations of ABC license and Health Department rules.







Mark Tuccinardi

800 block Bayview Drive

*55 year resident of MB

Angela Soo

From: Bradley Sherman <bradsherman@hotmail.com>
Sent: Tuesday, February 20, 2018 8:25 PM
To: Jason Masters
Subject: Re: 900 Club Meeting Tuesday 3:30 pm at Downstairs Bar

Jason,

Thank you very much taking the time out of your busy schedule to mediate a meeting between neighbors and the issues that surround the 900 Club/Downstairs bar. I feel that some valid points were made however it appears to be difficult moving forward with the personal vendetta some have against the establishment in question. I find it strange that some neighbors present have such grievance over noise considering that:

- 1) One gentleman way into his 70's complains about noise when he should have more complaints about the waves crashing from his 9th and Ocean residence (358 ft)*
- 2) An elderly lady off of 10th Place and Ocean who should probably be more concerned about Shellbacks and the Pier (541 ft)*
- 3) Lastly, another lady who lives on 10th and Highland claim to be upset after telling us multiple times that she is hard of hearing/deaf in one ear throughout our meeting. (679 ft)*

*Measurements taken from Google maps.

It's a shame that Mark Tuccinardi (331 ft) had to be so vulgar and aggressive to Dave with his profanity in front of the ladies. No reason to curse with the F -word multiple times at a meeting that was supposed to create resolution. There appears to be some grudge he has for Dave. It's embarrassing that a grown man had to stoop down to such immature levels. I had to stand in the middle in fear that he would swing on Dave. With all that being said, the lack of credibility the above mentioned neighbors should be accounted for. If it were of importance to other neighbors that are affected by the noise, then they should've attended.

Due to proximity, the ones with any direct impact by noise is Chad, Denise, Roseanna, and myself; with Roseanna having the only issue with any noise.(all who live directly across the street). In my eyes, Dave has made attempts to mitigate the noise issues.

Please forward this to Ann who had to leave due to the unforeseen circumstances. If you have any questions, please feel free to contact me.

Brad Sherman
817 Bayview Drive
Manhattan Beach, CA 90266
310-619-4772

From: Jason Masters <jmasters@citymb.info>
Sent: Thursday, February 15, 2018 5:47 PM
To: bradsherman@hotmail.com
Subject: 900 Club Meeting Tuesday 3:30 pm at Downstairs Bar

Brad,

I am not sure if Dave contacted you, but we are planning on meeting at the 900 Club on Tuesday at 3:30pm as we are closed tomorrow, and Monday is a holiday.

Please let me know if you are able to attend. Thank you,
Jason

Jason Masters
Assistant Planner

P: (310) 802-5515

E: jmasters@citymb.info



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February 28, 2018

Dear Commissioners,

Community Development's Staff Report and Presentation on 1/24/18 did not give you the background of the 900 Club.

To place all of this in perspective. Please see the attached reports that show the time (2011-2104), efforts and resources spent by Code Enforcement, the City Prosecutor and the Police Department prior to suggesting the Revocation/Modification hearing in 2014.

Sincerely,
Mark Tuccinardi

1. MB Police Dept Complaints Research
2. Compliance Attempts Summary
3. City Prosecutor Docket Events Cases Filed
4. Incident Summary
5. Summary of Judicial Complaints



DEPARTMENTAL COMMUNICATION
CITY OF MANHATTAN BEACH
POLICE DEPARTMENT

900 Club Complaints Research

January 15, 2014

Research was conducted to provide information to city representatives that will hear and provide testimony during the upcoming Revocation Hearing for the 900 Club. The report reflects police calls for service, police reports prepared, and officers' self-initiated activity regarding the 900 Club for the timeframe of January 2011 through December 2013.

Police Calls for Service:

Police calls for service are generated when subjects (both residents and visitors) contact the police for response to a complaint or concern. An officer (sworn police officer(s) and/or professional staff such as a community service officer) will respond to the location to assist in rectifying the complaint or concern, conduct a preliminary investigation, or enforce appropriate laws by preparing a written report for further investigation or prosecution filing, issuing a citation for the subject(s) to appear in court at a later time, or effect an arrest(s).

There were 11 calls for service that did not result in citation or arrest (2011 – 2013.) The following is a summary of the calls with no prosecution:

01-21-11 (Fri) 0017 hours Loud Music & After Hours Alcohol Consumption
The bartender was contacted, music turned down, and no other violations observed.

04-02-11 (Sat) 0005 hours Open Rear Door, CUP Violation & Live Band
The owner was contacted, and door was closed.

04-14-11 (Thurs) 0045 hours Loud Subjects at the Rear Door
No subjects located at the rear door.

04-14-11 (Thurs) 2304 hours Loud Music
Employee was contacted, windows were closed, and music turned down.

EXHIBIT C
PC MTG 2/26/14

"Policing through Partnerships"

05-01-11 (Wed) 0123 hours Subjects Entering After 0100 hours (CUP)
Officers responded and advised or assisted (No further details available.)

05-07-11 (Sat) 2218 hours Subjects using Bayview Dr. Door
Owner was contacted and advised of the complaint. No subjects were seen utilizing the door, only employees for work related purposes.

06-10-11 (Fri) 2238 hours Loud Music
The reporting party (complainant) recalled and requested the call be cancelled, stating she asked the music to be turned down, herself, and there was no need for police to respond.

07-09-11 (Sat) 0044 hours Loud Live Band with Open Windows
Officers advised and the music was turned off.

02-05-12 (Sun) 1923 hours Intoxicated Subject inside Location
A patron called regarding an intoxicated subject inside the location, fearing the subject would attempt to drive. The patron called back to say the subject went into the private section of the club and would recall if the subject left.

05-12-12 (Sat) 2303 hours Bayview Dr. Door Open with Loud Music
The owner was contacted and closed the door.

11-03-13 (Sun) 0118 hours Loud Subjects
The call was cleared as unfounded (no loud subjects located.)

Self-Initiated Police Response:

Self-Initiated Police Response occurs when an officer conducts an investigation or inquiry without being directed to the location by complaint or being dispatched. The officer's observation or investigation will determine what action will follow (advisement, citation, arrest, or no action.)

There were 5 officer initiated contacts that did not result in citation or arrest (2011 – 2013.) The following is a summary of the contacts with no prosecution:

12-10-11 (Sun) 0206 hours Verbal Argument between 2 Subjects
There was no crime observed, and no other calls regarding the incident.

**10-25-12 (Thur) 2200 hours ABC Compliance Check
DR #12-3760**

The compliance check revealed several bottles of alcohol containing bugs; and a CUP violation for the rear door (Bayview Dr.) being continuously open. A police report was prepared and submitted for prosecution review with DR #19-3677 (347(b)PC violation – Adulterated alcohol for sale, ie, "Buggy Bottles.")

08-06-13 (Tues) 1944 hours ABC Compliance Check
Officers conducted a compliance check with no investigative reports generated.

11-22-13 (Fri) 2122 hours Bayview Dr. Door observed Open
There was no noise heard coming from the location, and no calls regarding the door.

11-23-13 (Sat) 2332 hours Bayview Dr. Door observed Open with Music

An employee was contacted who closed the door and turned the music down. There were no calls regarding the incident.

Report Calls:

Police Report Calls are generated when subjects (both residents and visitors) contact the police to report a crime or incident for documentation, further investigation, and/or prosecution. An officer will respond to the given location or police station to interview the subject so that a written police report for further investigation or prosecution filing will be prepared.

There were 8 report calls generated. The following is a summary:

**09-03-11 (Sat) 2354 hours 5.48.140 MBMC (Noise Disturbance)
DR #11-2882**

Officers responded to a report of loud music later determined to be from a live band. A police report was generated with the officer recommending in his report, the information be forwarded to the city prosecutor for review.

**06-03-12 (Sun) 0100 hours 5.48.120 MBMC (Noise Disturbance)
DR #12-1938**

A report of loud noise and amplified music coming from the location (0100 hours) was prepared. The report was submitted with DR #12-3677 for prosecution review.

**10-18-12 (Thurs) 2339 hours 5.48.140 MBMC (Noise Disturbance)
DR #12-3677**

A report of loud subjects outside the location and alcohol being served after CUP hours (0015 hours) was prepared. The report was submitted for prosecution review.

10-27-12 (Sat) 0134 hours CUP Violation (Subjects inside after Hours)

DR #12-3771 Citation #M377560

Officers conducted a self-initiated security check of the location and found approximately 15 subjects inside the business with alcoholic beverages. Upon noticing the police, employees rushed over to patrons requesting they leave. The report was forwarded to the Detective Section and Code Enforcement. There is no indication the report was forwarded otherwise.

01-18-13 (Fri) 1040 hours Building Code Violation

DR #13-190

Code Enforcement Officer Jacqueline Harris issued a citation to David Rohrbacher for California Building Code 105.1 (Permit Required.)

03-17-13 (Sun) 0145 hours 10.104.040 MBMC (Violation of Resolution)

DR #13-780

A report of loud music, loud noise by the band loading their equipment, and subjects inside the club after hours was prepared. Upon officers arrival, no violations were observed. An informational report was prepared and forwarded to the Code Enforcement Officer.

04-30-13 (Tues) 0032 hours 5.48.140 MBMC (Noise Disturbance)

DR #13-1289

Officers conducted a security check of the location and discovered loud noise and subjects inside the location after hours. Upon entry, the subjects (1 male and 2 females) were contacted as they were playing a game of pool with alcoholic beverages at the countertop of the bar. A police report of the findings was prepared and forwarded for prosecution review.

11-16-13 (Sat) 0130 hours 5.48.140 MBMC (Noise Disturbance)

DR #13-3570 Citation #M452994

Officers responded to a complaint of loud music and subjects. Upon arrival, officers were met with a large crowd exiting the location after CUP closing time. Two misdemeanor complaints (2 complainants) were signed, for prosecution against owner David Rohrbacher, with a citation issued.

Foot Beat:

Officers patrol areas of the city by walking (commonly known as a "Foot Beat") while interacting with citizens, but also addressing crimes and other quality of life issues as seen.

There were 17 Foot Beats initiated by officers around the area of the 900 Club:
2011 – 2
2012 – 1
2013 – 14

All Foot Beats were cleared either Secure/Assisted (No enforcement necessary)

Security Check:

Officers conduct checks of locations that are open or closed for business. If open, generally the officer will make contact with employees/patrons to ensure all is well. If closed, officers check to ensure no suspicious or criminal activity is occurring (or has occurred.)

There were 51 Security Checks initiated by officers around the area of the 900 Club:
2011 – 11
2012 – 20
2013 – 20

All Security Checks (with the exception of 1) was cleared either Secure or Other (No enforcement necessary.) The exception was addressed above in DR #13-1289

Prosecution/Filings:

To date, the police department has received notification from the Superior Court of California for the County of Los Angeles that a Misdemeanor Complaint was filed by the Los Angeles County District Attorney's Office for a violation of Penal Code Section 415(2), committed by David Rohrbacher. This case is still in the adjudication process (DR #12-3677, which encompasses DR #12-1938 and #12-3760.)

Definitions:

415(2)PC (Penal Code Misdemeanor) – willfully, unlawfully, and maliciously disturb another person (witnessed identified) by loud and unreasonable noise.

347(b)PC (Penal Code Misdemeanor) - It shall be unlawful for any person, firm or corporation to manufacture, sell, furnish, or give away, or offer to manufacture, sell, furnish, or give away any alcoholic solution of a potable nature containing any deleterious or poisonous substance, and the burden of proof shall be upon the person, firm, or corporation manufacturing, selling, furnishing, or giving away, or offering to manufacture, sell, furnish, or give away, any such alcoholic solution of a potable nature containing any deleterious or poisonous substance, to show that such alcoholic solution of a potable nature did not contain any deleterious or poisonous substance. Every person who violates any of the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine not exceeding two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

10.104.040 MBMC - Prosecution of Violations.

Unless otherwise provided, any person, firm or corporation violating any provision of this title shall be guilty of a misdemeanor; provided, however, that any violation of this chapter may be charged as an infraction at the discretion of the City Prosecutor. Each day or portion thereof that such violation continues or reoccurs shall be a new and separate violation. For purposes of this title, both the owner of record of a specific property and any tenant in possession shall be liable for compliance with all of the provisions of this title. Nothing in this section shall preclude the City from bringing a civil action to enforce the provisions of this title.

5.48.120 - Amplified sounds—Electronic Devices.

It is prohibited for any person to permit the transmission of, or cause to be transmitted, any amplified sound on any public street, sidewalk, alley, right-of-way, park, or any other public place or property which sound is audible at fifty feet (50'). This section shall not apply to any noncommercial public speaking, public assembly, or other activity for which a permit has been issued.

5.48.140 MBMC - Noise Disturbances.

Notwithstanding any other provisions of this chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which

disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness. The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

A.

- 1. The level of the noise;**
- 2. Whether the nature of the noise is usual or unusual;**
- 3. Whether the origin of the noise is natural or unnatural;**
- 4. The level and intensity of the background noise if any;**
- 5. The proximity of the noise to residential sleeping facilities;**
- 6. The nature and zoning of the area within which the noise emanates;**
- 7. The density of the inhabitation of the area within which the noise emanates;**
- 8. The time of the day and night the noise occurs;**
- 9. The duration of the noise;**
- 10. Whether the noise is recurrent, intermittent or constant;**
- 11. Whether the noise is produced by a commercial or noncommercial entity;**
- 12. Whether the noise occurs on a weekday, weekend, or holiday.**

B.

The City may issue a citation against the person, persons, or entity responsible for the noise including, but not limited to, the property owner or business operator on whose premises the noise originates.

900 CLUB - Timeline of Compliance Attempts

Milestones 2011		Events
1st	March 2011 - May 2011	Numerous Warnings from Code Enforcement Officer
2nd	5/26/2011	Block Captain and "Club" Meet & Agreement
3rd	9/3/2011	Police Report - Noise Ordinance Violation (D.Rohrbacher)
Milestones 2012		Events
1st	6/3/2012	Police Report & Supplement- Operating After CUP Hours & Noise Violation (D. Rohrbacher)
2nd	6/25/2012	M.B. City Prosecutor , Code & Police Meet Impacted Neighbors Again
3rd	7/17/2012	M.B. City Prosecutor, Code & Police Meet "900 Club"
4th	9/6/2012	Install Camera, "Club" Aware
5th	9/28/2012	M.B. City Prosecutor & Police View Video
6th	10/18/2012	Police Report -Operating After CUP Hours (D. Rohrbacher) Supplement Violations 10/25/2012
7th	10/25/2012	ABC Violation - "Bugs in Bottle"
8th	10/27/2012	Police Report - Operating After CUP Hours (D. Rohrbacher)
9th	12/12/2012	Judicial Complaint #1 Filed - After 2011 and 2012 Warnings - Disturbing the Peace
Milestones 2013		Events
1st	1/3/2013	M.B. City Prosecutor and "Club" Attorney Office Conference
2nd	1/15/2013 - 1/18/2013	Code Enforcement Warnings, no action, Citation Issued - Building Permit Violation
3rd	2/14/2013	Judicial Complaint #2 Filed
4th	4/30/2013	Police Report - Operating After Hours & Violation of Noise Ordinance (Doherty)
5th	7/16/2013	Judicial Complaint #3 Filed
6th	9/18/2013	M.B. City Prosecutor & Torrance DA Plea Bargain/Diversion - Agreement Round #1 w/"Club"
7th	11/16/2013	Police Report - Operating After Hours & Violation of Noise Ordinance (D. Rohrbacher)
8th	12/6/2013	Torrance DA Cancels Plea/DA Separates Case from City of MB's - Continued Non-Compliance
9th	12/10/2013	Judicial Complaint #4 Filed
Milestones 2014		Events
1st	1/1/2014	Plea Bargain - Diversion Agreement Round #2 Pending
2nd	1/7/2014	Notice of CUP Revocation/Modification Hearing Notice Sent to "Club"
3rd	2/2/2014	Police Report - Violation of Noise Ordinance (D. Rohrbacher)
4th	2/6/2014	Judicial Complaint #5 Filed

Judicial Complaints Filed by MB City Prosecutor
Total of 5 Complaints Filed

Summary of Docket Events Per Case

Case #1: Defendant, David Rohrbacher

Case No. # 2SY09217 – Disturbing the Peace by Loud Noise

Filed 12/19/2012 - Torrance Courthouse

See Police Report & Supplemental Report # 12-3677, 10/18/2012

First Arraignment in Court on 1/7/2013

Defendant Fails to Appear and Bench Warrant Issued - \$5000.

Case has approx. 11 Continuances over 1 ½ Years

Status - Continued to 5/21/2014.

Summary of Docket Events Per Case

Case #2: Defendant, David Rohrbacher

Case No. # 3SY00900 – Building Code Violation

Filed 2/14/2013 – Torrance Courthouse

See Citation # M37756 Dated 1/18/2013

First Arraignment in Court on 2/19/2013

Defendant Fails to Appear & Bench Warrant Issued - \$15,000

Case has approx. 13 Continuances over 1 ½ Years

Status - Continued to 5/21/2014.

Summary of Docket Events Per Case

Case #3 - Defendant, Timothy Doherty

Case No. # 3SY04497, 2 Counts CUP Violation and Noise Disturbance

Filed 7/18/2013 – Torrance Courthouse

See Police Report # 13-1289 for 4/30/2013

First Arraignment in Court on 7/24/2013

Case has approx. 9 Continuances

Status - Continued to 5/21/2014

*Note – Not filed in complaint – Defendant made a false report of his identity to Police.

Summary of Docket Events Per Case

Case #4: Defendant, David Rohrbacher

Case No. # 3SY08142, 2 Counts CUP Violation, Noise Violation

Filed 12/10/2013 – Torrance Courthouse

Police Report # 13-3570, 11/16/2013.

First Arraignment in Court on 1/7/2014.

Defendant is a No-Show and Bench Warrant Issued

Case has approx. 4 Continuances

Status - Continued to 5/21/2014

**City Public Acts Request MB
(Pending Documents Not Received)**

Judicial Complaint #5

Complaint Not Received, Docket Obtained from Court House

Summary of Docket Events Per Case

Case #5: Defendant, David Rohrbacher

Case # 4SY00912, Violation of Noise Ordinance

Filed 2/6/2014 – Torrance Courthouse

Police Report- 2/2/2014

First Arraignment in Court 3/27/2014

Case has approx. 2 Continuances

Status - Continued to 3/27/2014

900 Club - Enforcement Summary

Incident #	Enforcement Report #	Citation Issued	Violation Noted	Violations
#1	PR # 11-2882	No	Yes	Noise Ordinance
#2	PR # 12-1938	No	Yes	None Reported
#3	PR # 12-3677	No	Yes	Open past CUP & Service of Alcohol Loitering back door
#4	PR# 12-3677 Supplement	No	Yes	3 counts of Noise Ordinance 7 counts of CUP Violations ABC - BPC Violations
#5	PR # 12-3771- Denied Copy	Unknown	Yes	Open past CUP & Service of Alcohol Noise Ordinance
#6	PR # 190	Yes	Yes	Building Code Violation
#7	PR # 1289	No	Yes	Noise Ordinance
#8	PR #13-3570 PR # 13-3570 Supplement- Copy Denied	Yes	Yes Yes	Noise Ordinance Operating after CUP hours
#9	PR #14 -00364	Yes	Yes	Noise Ordinance
Total Citations and Violations:		3 Citations	22 Violations	

CASES FILED AGAINST 900 CLUB – CITY PROSECUTOR

Date	Report	Violation	City Prosecutor Review	Case Number/Date Filed	Notes
Sunday, June 3, 2012 1:00 a.m.	DR#12-1938	Noise and Amplified Music and Alcohol	X Office Conference held by City Prosecutor (Informal Meeting)	Case No. 2SY09217 Filed on December 19, 2012 People vs. David Rohrbacher	Alcohol still being served to patrons at 1:00 a.m. DR#12-1938 included in District Attorney's Case No. 2SY09217 filed on December 19, 2012 Count 1 - Violation of Section 415(2) Penal Code
Thursday October 18, 2012 12:15 a.m.	DR# 12-3677	Loud noise & Bartender still serving alcohol, Violation of CUP	X	Case No. 2SY09217 Filed on December 19, 2012 People vs. David Rohrbacher	Advised Owner of CUP violation Supp. Report No. 0001 dated October 24, 2012, officers meet with neighbor Recommendation to consider file Misdemeanor charges against 900 Club Mgmt for: 3 Counts 5.48.140 MBMC 7 Counts Violating Reso No. 93-28 # 18, 10.104.010 MBMC 1 Count of 347(b) PC Various violations of CUP & The ABC ACT (B+P) DR#12-3677 included in District Attorney's Case No. 2SY09217 filed on December 19, 2012 Count 1 - Violation of Section 415(2) Penal Code
Thursday October 25, 2012 10:00 p.m.	DR# 12-3760	ABC Compliance Check (16 bottles of alcohol containing bugs, one bottle containing 20 bugs)	X	Case No. 2SY09217 Filed on December 19, 2012 People vs. David Rohrbacher	Requesting District Attorney file charges of 347(b) PC and 10.104.010 MBMC DR#12-3760 included in District Attorney's Case No. 2SY09217 filed on December 19, 2012 Count 1 - Violation of Section 415(2) Penal Code

EXHIBIT D
PC MTG 2/26/14

CASES FILED AGAINST 900 CLUB – CITY PROSECUTOR

<p>Saturday October 27, 2012 1:34 a.m.</p>	<p>DR# 12-3771</p>	<p>CUP Violation Report (15 subjects w/alcohol @ 1:34 am)</p>	<p>X</p>	<p>Case No. 2SY09217 Filed on December 19, 2012 People vs. David Rohrbacher</p>	<p>Advised Asst. Manager said she was unsuccessful in attempting to have everyone leave the bar – Audio uploaded to PUMA server</p> <p>Supp. Report No. 0001 dated November 10, 2013, Evidence included 4 CD's, a binder with misc. paperwork and flash drive booked into evidence and related to DR#12-3677.</p> <p>DR#12-3771 included in District Attorney's Case No. 2SY09217 filed on December 19, 2012 Count 1 - Violation of Section 415(2) Penal Code</p>
<p>Friday January 18, 2013 10:40 a.m.</p>	<p>DR# 13-190</p>	<p>CA Building Code Permits Required 105.1 – Rear fence construction (a permit is required for any fence over 6ft in height)</p>	<p>X</p>	<p>Case No. 3SY00900 Filed on February 19, 2013 People vs. David Rohrbacher</p>	<p>VIOLETION OF 9.01.010 MBMC Adoption of CA Building Code Section 105.1</p> <p>Rear fence construction (a permit is required for any fence over 6ft in height)</p>
<p>Tuesday April 30, 2013 12:39 a.m.</p>	<p>DR# 13-1289</p>	<p>Loud music heard more than 50 ft away & 1:45 a.m. Violation of Conditional Use Permit 10.104.010 MBMC & Noise Disturbances 5.48.140</p>	<p>X</p>	<p>Case No. 3SY04497 Filed on July 13, 2013 People vs. Timothy Doherty</p>	<p>Loud music and alcohol being served and consumed False information given by defendant</p> <p>VIOLETION of Provisions of CUP Reso No. PC 93-28 in violation of 10.104.010 of MBMC & Noise Disturbance 5.48.140 MBMC</p>

CASES FILED AGAINST 900 CLUB – CITY PROSECUTOR

Saturday November 16, 2013 1:30 A.M.	DR# 13- 3570	Noise & alcohol violations 5.48.140 MBMC	X	Case No. 3SY08142 Filed on December 2, 2013 People vs. David Rohrbacher	Owner of 900 Club cited for loud music and noise violation. Two neighbors signed Complaints on 11/16 and 11/17. Police observed the bar servers clearing. Please see photo's (4) via email regarding noise and related to DR#13-3570
Sunday February 2, 2014 12:33 A.M.	DR#14- 00364	Loud music and live band playing 5.48.140 MBMC Noise Disturbances	X	Case No. 4SY00912 Filed on February 6, 2014 People vs. David Rohrbacher	Owner of 900 Club cited for noise violation

The status of the following cases filed against the 900 Club:

1. 2SY09217 – People vs. David Rohrbacher
2. 3SY00900– People vs. David Rohrbacher
3. 3SY04497 – People vs. Timothy Doherty
4. 3SY08142 – People vs. David Rohrbacher
5. 4SY00912– People vs. David Rohrbacher

The cases are still pending so that the City Prosecutor can work with the District Attorney to globally resolve the issues and violations on the site.

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

900 CLUB TESTIMONY, PLANNING COMMISSION, 28 FEB 2018

Don McPherson, 1014 1st St, and owner of the rental property at 1001 Bayview Dr, one block north of the premises.

The staff report states that the only way to mitigate noise disturbances requires modification of the use permit to include more restrictions. Per the municipal code, this constitutes reasonable grounds that mandate a hearing to revoke or modify the use permit. I requested this action at the January 24 meeting, but now, the municipal code demands it.

It appears that setting a hearing for use-permit modification no longer remains discretionary, based on the staff-report statement just cited. It seems logical then, for the Commission to deny the current 900 Club application and to proceed with use-permit modification. To that end, I have three issues to raise.

The noise from the downstairs comes from upstairs amplified music, via the stairwell. I determined that during the 2014 revocation hearing.

The mitigation list in the staff report does not address this prime cause of the disturbances. My January 25 email to you requested access to inspect the premises, but staff excluded me from the neighborhood meeting. From the outside, however, the downstairs looks physically separate from the upstairs.

If the physical separation exists, then self-closing doors at the top and bottom of the staircase will greatly reduce the downstairs noise. In any case, the 1st-floor bar requires acoustic isolation from the upstairs.

For my second issue, staff ignores another 900 Club violation, namely the annual entertainment permit, of which no record exists. When amending the use-permit, the Commission can add operational restrictions to the annual entertainment permit, to jerk 900 Club's chain, when they go crazy, such as now.

For my third issue, direct staff to bring forth the 900 Club resolution during the public hearing. At the January 24 hearing, you directed them to do that for tonight, but they refused. Staff frequently uses this tactic to deny public review of use permits, such as in 2014 for the 900 Club. I am on a mission to stop this outrageous practice by staff, which violates the Brown Act, or its intent.

Distributed at
2/20/18 PC



DEPARTMENTAL COMMUNICATION

CITY OF MANHATTAN BEACH POLICE DEPARTMENT

February 28, 2018

Subject: 900 Club Noise Complaints Research

Time Frame: February 2017 through February 2018

Summary: Over the last 12 months, there were 9 calls for service generated to the Manhattan Beach Police Department for the business located at 900 N. Manhattan Ave. These numbers do not include other types of calls for service or self-initiated investigations at 900 Manhattan Ave. such as traffic stops, pedestrian stops, response to suspicious subjects, etc.

Of the 9 complaints, no citations or arrests were deemed necessary by the officer or officers on scene. The following is a summary of the type of call and disposition typed into the MDC or given over the radio by the responding officer or officers:

- 1. Date and Time:** 06-24-17 at 0041 hours
Complaint: Group of subjects being loud to the rear of the business
Disposition: Unfounded. Notes 5 subjects were in fact talking outside a vehicle but according to the two officers on scene, it was not unreasonable for the location and time of night.
- 2. Date and Time:** 08-06-17 at 0104 hours
Complaint: Loud music coming from bar request subjects turn it down
Disposition: Unfounded. Bar was closed according to two officers on scene.
- 3. Date and Time:** 09-03-17 at 0022 hours
Complaint: Loud music
Disposition: Advised to turn music down by officer on scene.
- 4. Date and Time:** 09-09-17 at 0028 hours
Complaint: General noise complaint
Disposition: Door of the bar was shut upon officer's arrival and music was turned down

Distributed at
2/28/18 P.G

"Policing through Partnerships"

- 5. Date and Time:** 12-16-2017 at 0117 hours
Complaint: Subjects loitering and being loud outside the bar after it is closed
Disposition: Subjects were waiting on Manhattan Ave. for an Uber according to the officer on scene.
- 6. Date and Time:** 01-14-18 at 0033 hours
Complaint: Loud music. Request they close the doors
Disposition: Noise was not unreasonable however bouncer is going to close the door according to the officer on scene.
- 7. Date and Time:** 02-10-18 at 2355 hours
Complaint: Loud music and subjects. Request bar be advised of noise level
Disposition: Business advised by officer on scene.
- 8. Date and Time:** 02-17-18
Complaint: Extremely loud music all doors and windows open
Disposition: Business was advised by two officers on scene.
- 9. Date and Time:** 02-25-18
Complaint: Loud Music
Disposition: South facing door propped open approximately 12 inches. Southwest facing window open approximately 8 inches next to DJ. Amplified sound could be heard from the west side of Manhattan Ave. (This officer on scene was one of our ABC officers so he included longer notes than usual.)

WILLIAM VICTOR

A Law Corporation

POB 88603

LOS ANGELES, CA 90009 DIRECT TELEPHONE NUMBER : 516-670-2590

February 28, 2018

TO THE HONORABLE PLANNING Commission of Manhattan Beach

Re:: 900 Manhattan Avenue both floors

The requests of the owner and operator of the above facility has requested :

1. To extend hours of closing to 2AM on specified evenings
2. To have 24 special events instead of 12 special events per annum
3. Numerous other additional uses which should be denied except the change of last call

This office on behalf of the undersigned and the other neighbors requests that there be No extension of closing time, or other requests and the current CUP be extended as is and if in one year the situation and number of complaints are less than five, an change can then be considered at that time by the Planning Commission and the City Council thereafter.

All notices for the special events need to have advance notice to all residents who have indicated interest including the undersigned at least 14 business days in advance and those special events must continue to abide by the existing CUP in effect at this time.

All entertainment with or without amplification must be in the second floor of 900 /closed windows.

All notices must for special events must be sent to all interested parties between Highland and Ocean Drive including the undersigned attorney.

Thank you for your consideration of the neighbors to this operation.

William Victor

A Law Corporation

By William Victor

.Enclosures as stated

Resolution 14-0063 CUP for entire building

Incident Report #18 February 25, 2018

Lower Bar Violations Observed by Officer M. Allard

Violation of Point 1. Music not turned off 30 minutes prior to close.

Violation of Point 3. No licensed, bonded, security guard from 9:30pm on Thursday, Friday and Saturday nights until all employees off premises. No security guard is present – doorman or employee does not count.

Violation of Point 5. 9th Street door to lower bar to remain closed when not in use. Door is being propped open.

Music and patrons shall not be heard at edge of Bayview and 9th or Manhattan Ave edge.

Violation of Point 11. All doorways and windows to remain closed during amplified music. (9th Street door propped and 9th Street window open).

Violation of 9 B. No amplified music on first floor bar. DJ is amplified music. Additionally, no notice of “entertainment” to neighbors as required - a violation (DJ is amplified music and “entertainment”. Was Police and City notified as required? If not, a violation.

Violation of Points 6 & 7. Should only be non-amplified music and is should not be able to be heard at eastern most edge of Bayview Drive (and 9th) Or Southern Edge of 9th Street (and Manhattan Ave)

INCIDENT #18 2-25-18

Manhattan Beach Police Department



PRESENTED BY

M. ALLARD 317

420 15th Street
Manhattan Beach, CA 90266
www.citymb.info

PHONE (310) 802-5140
FAX (310) 802-5107

INCIDENT HISTORY DETAIL: LAW/S180560018

Initiate:	00:17:35	02/25/18	Call/Case Nbr:	S0018
Entry:	00:17:45		Current Status:	CLOSED
Dispatch:	00:19:37		Primary Unit:	<u>2L7M</u>
Onscene:	00:32:41		Jurisdiction:	MB
Close:	00:36:43		Disposition:	ADAST

Location: 900 N MANHATTAN AV ,MAN (9TH ST & 9TH PL)

Loc Comments:

DAREA:	P2	Current:	
Beat/Stn:	M8	Map Page:	E14
		Type:	415M
		Final:	

RD:	M18	Page:	Priority: 2	LOUD
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MUSIC

Page:

PRIORS

Detail

00:17:45	ENTRY	R649/SB01	NO FURTHER INFORMATION
00:17:45	PRIOR		SP 415M 02/17/18 @ 23:15:26 (12 MORE)
00:17:49	HOLD		
00:18:17	MISC		.18 8, 415 LOUD MUSIC AT MANHATTAN AVE-RP REQUESTING CONTACT BUT DID NOT PROVIDE A NAME- [REDACTED] [REDACTED] [02/25/18001817001]
00:19:02	MISC		.18 ., HIGHLAND/9TH,, RP IS REFUSED NAME, [REDACTED]
00:19:37	DISP-ENR		.18 . <u>2L7M</u>
00:19:37	ID		2L7M (20317)ALLARD, MICHAEL
00:19:42	MISC-RAD		2L7M, W/A
00:22:13	CHGLOCOS		2L7M 9TH/HIGHLAND
00:26:16	MISC-RAD		2L7M, WALKING W/RP TO

00:32:41 ONSCENOK

00:36:37 MISC 20317/M195

CHECK THIS OUT

2L7M

2L7M, south facing door propped open approximately 12 inches, no door / security personal visible from outside or through 12 inch opening. Southwest facing window open approximately 8 inches, next to where DJ was located.

Amplified sound could be heard from the west side of Manhattan Ave near the dry cleaners. INC# given to RP.

00:36:43 CLEAR

2L7M ADAST

00:36:43 CLOSE

2L7M ADAST

OPERATOR ASSIGNMENTS: SB01 R649 SMITH, KEVIN
M195 20317 ALLARD, MICHAEL

Jason Masters

From: Denise Arredondo <denisearredondo@gmail.com>
Sent: Wednesday, February 28, 2018 6:08 PM
To: Jason Masters
Cc: Denise Arredondo Epeneter; Chad Epeneter
Subject: 900 Club / Downstairs Bar - Please add to Staff Report

Hi Jason,

Thank you to you and Ms. McIntosh for taking the time to meet last week regarding the issues surrounding 900 Club and the Downstairs Bar. You both were very patient and open to everyone's feedback.

As you know, I live with my husband and kids (19 year old son, 4 year old girl, and 1 year girl) at 817 1/2 Bayview Drive, on the corner of 9th and Bayview, We are the closest residence to both 900 Club and the Downstairs Bar.

We really like our neighbors, and we really support Dave Rohrabacher and his business. We personally don't have an issue with the noise, and never have. We were in support of Dave 3 years ago when he went in front of City Council and was told to make improvements to minimize the noise. I work from home part time and personal saw him installing new windows, a fence, signage, and other items to address the neighbors' concerns.

Regarding the meeting last week, I'm upset that I had to take time off of work for a meeting to hear people vent about multiple things, not just 900 Club or the Downstairs Bar.

I heard a resident on 9th and Ocean that said he couldn't find Dave on a night that he thought the noise was loud, and ended up dancing with one of the girls and had a great time. Another resident, on 10th and Ocean, stated she can hear the music from the Downstairs Bar, as well as the "walruses" from the Redondo pier, and shooting practice from Chevron plant in El Segundo. A third neighbor on Highland and 10th, stated she is deaf in one ear, sleeps with her good ear down, cannot hear when talking to people, and needs to read lips. She claims she hears the noise from 900 Club/Downstairs Bar and Simmzy's. Another neighbor on Bayview to the South of us was venting about issues from even before Dave took ownership of the bar. He got extremely angry and started using vulgar, that we wonder if he is making it personal. The meeting ended with this neighbor cursing at Dave and Mrs. McIntosh walking out.

Another neighbor lives on 9th, 2 homes directly east of us, that Dave has worked directly with to help work through any noise concerns. This came after the last Council meeting where Dave was made aware that there is now an issue with the Downstairs Bar.

At the end of the meeting, I stated to all of the neighbors that we can get together to review CUP that they claimed the City was not enforcing. I was willing to sit with them and review to come up with a solution to present to Dave that would resolve all the issues, but they declined to do so.

Please contact me with any further questions, I can make myself available at any time.

Thanks,

Denise Arredondo Epeneter

Neighborhood Watch Block Captain

Cell: 310.343.3789