

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

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Eric Haaland, Associate Planner

DATE: March 23, 2005

SUBJECT: Master Use Permit Amendment to Allow Modification of an Outdoor Patio to Include Beer and Wine Service for an Existing Restaurant Located at 401 Manhattan Beach Boulevard (Pasta Pomodoro)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the request.

APPLICANT

Pasta Pomodoro
1550 Bryant St. #100
San Francisco, CA 94103

OWNER

Dana Ireland
1 Seacove Drive
Rancho Palos Verdes, CA 90275

PROJECT OVERVIEW

L O C A T I O N

Location

401 MBB & 1148/1150 Morningside Dr., at the northeast corner of Manhattan Beach Boulevard and Morningside Drive (See Site Location Map).

Legal Description

Lots 1 & 2, Block 97, Manhattan Beach Division #2.

Area District

III

LAND USE

<u>General Plan</u> <u>Zoning</u> <u>Land Use</u>	Downtown Commercial CD, Commercial Downtown <u>Existing</u> 8,414 sq. ft. Restaurant/Office Building on 8,170 square foot site	<u>Proposed</u> No Change
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Neighboring Zoning/Land Uses

North	CD/Commercial (Metlox) site
South (across MBB)	CD/Bank
East	CD/Commercial (Metlox) site
West (across Morningside Dr.)	CD/Animal Hospital & Parking Struc.

PROJECT DETAILS

	<u>Proposed (and existing)</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	8,170 sq. ft.	2,700 sq. ft. min
Building Floor Area:	8,414 sq. ft	12,255 sq. ft. max
Height	2-stories existing	30 ft. max.
Setbacks	None	None
Parking:	34 spaces (*)	34 spaces (*)
Hours of Operation:	7am – 11pm (Pasta Pomodoro)	(Same)

(*) - Existing master use permit for entire site requires 34 parking spaces which are provided through city parking permits issued to site tenants.

BACKGROUND

The subject site, presently occupied by two restaurant tenants and one office tenant, received its original use permit approval in 1983 by City Council Resolution No. 4071. Conditions were imposed upon the restaurant requiring maintenance of a minimum of 30 off-site parking spaces and a valet parking program.

In 1992 an entirely new restaurant entitlement was approved for the site that required a total of 34 parking spaces (19 off-site). The off-site parking was allowed to be satisfied in the form of city merchant parking permits.

A master use permit to divide the building into 3 separate tenant spaces was approved in 2000, which currently regulates the development. Outdoor dining areas encroaching into the public right-

of-way were approved for the 2 restaurants within which alcohol service was prohibited. This approval continued the previous 34 parking space requirement for the site.

In 2002, the City purchased the rear portion (parking lot) of the subject site for inclusion into the abutting commercial and public parking development known as the “Metlox” project. The same project parking requirement was maintained through this process and the City Council permitted all 34 spaces to be provided through Downtown parking permits.

DISCUSSION

The submitted plans propose a reconfiguration of the existing 450 square foot patio dining area for the front restaurant of an existing 2-story commercial building. The interior portion of the restaurant and other tenant spaces within the building would not be altered. The modification primarily involves removing the westerly portion of the patio located within the Morningside Drive street right-of-way, and replacing it at the east side of the site within a currently landscaped area of private property. The purpose of the project is to remove all dining area from public property in order to permit service of alcohol on the patio. Beer and wine service is currently permitted for the restaurant use, but is specifically prohibited on the entire patio since a portion is located on public property. The applicant is requesting to retain an approximately 6 square foot area of patio surface within the Morningside Drive right-of-way as a landing area in order to keep the existing patio doorway in place.

The project conforms to all zoning and local coastal program requirements. No additions or construction is proposed except on-grade patio surfacing and railing to match existing. No intensification of use is proposed except for the addition of beer and wine service to existing dining service on an outdoor patio of equal size to that existing. The outdoor dining area shall be limited to 450 square feet as specified in the site’s existing master use permit. Dining service including beer and wine has typically been approved for Downtown restaurant patios located on private property. This particular location has a central, high-traffic orientation away from more sensitive residential district boundaries.

Staff has provided the attached draft resolution approving the project, which contains all relevant existing conditions imposed by the site’s master use permit, and the additional requirements relevant to the subject proposal as follows:

- Edge treatments – The project will involve improvements abutting the Metlox development such as paving, planting, and railing that should be coordinated with the neighboring project to avoid awkward results. Drainage issues at the site boundaries also need to be addressed in the near future. A condition requiring coordination of these issues is proposed.
- Sidewalk improvements along Morningside Drive – The project would involve some work by the applicant in the Morningside Drive right-of-way as the patio area is removed. An

opportunity exists at this time to upgrade the segment of public sidewalk adjacent to the subject site that will lead to an entry point to the Metlox public plaza being completed this summer. Improvements to this previously moderate-use sidewalk would benefit both the Metlox development and the subject commercial building. A condition in the draft resolution requires the applicant to pay a “fair share” portion of such improvements if they do occur in the near future.

- Parking permit agreement – The City and subject property owner established an agreement regarding fees and procedures for the parking permits used by the site for required parking in 2002. A reference to that agreement is included in the proposed amended master use permit.

Neighbor Comments: Staff has received one inquiry, and no comments in response to the project hearing notice.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and adopt the attached resolution of approval.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of CEQA.

ALTERNATIVES

The alternatives to the staff recommendation available to the Planning Commission include:

1. **APPROVE** the project and **ADOPT** a revised Resolution.
2. **DENY** the project subject to public testimony received, based upon appropriate findings, and **DIRECT** Staff to return an appropriate Resolution.

Attachments:

- A. Proposed Resolution No. PC 05-
- B. Site map
- C. Applicant description (NAE)

- D. Existing Use Permit Reso. No. PC 02-29
- E. Project Plans (NAE)

cc: Hannah Beers, Pasta Pomodoro
Dana Ireland, Property Owner

RESOLUTION NO. PC 05-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AMENDMENT FOR THE MODIFICATION OF AN OUTDOOR PATIO ON THE PROPERTY LOCATED AT 401 MANHATTAN BEACH BOULEVARD (Pasta Pomodoro)

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing, received testimony, and considered an application for a master use permit amendment at its regular meeting of March 23, 2005; for the modification of an existing 450 square foot outdoor dining patio to remove encroaching area and include service of beer and wine on the property legally described as Lots 1 & 2, Block 97, Manhattan Beach Division #2 located at 401 Manhattan Beach Boulevard and 1148/1150 Morningside Drive in the City of Manhattan Beach.
- B. The applicant for the subject project is Pasta Pomodoro, and the owner of the property is Dana Ireland
- C. Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of the CEQA Guidelines.
- D. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- E. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential.
- F. The General Plan designation for the property is Downtown Commercial.
- G. The Local Coastal Program designation for the property is Downtown Commercial. A coastal development permit is not required since the project does not include a building enlargement or increase in intensity of land use classification.
- H. Approval of the patio modification and patio beer and wine service, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City as detailed in the project Staff Report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. A total of 34 parking spaces are required by this use permit. The property shall comply with this requirement by maintaining 34 city merchant parking permits or other equivalent qualifying off-site parking.
- L. This approval supercedes all previous use permit approvals on the site. Applicable conditions from the original master use permit establishing 3 separate commercial tenancies, and an amendment removing an on-site parking lot are included in this approval and shall remain in effect. This Resolution, upon its effectiveness, constitutes the Master Use Permit for the subject

RESOLUTION NO. PC 05-

property.

RESOLUTION NO. PC 05-

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject master use permit application subject to the following conditions (*indicates a site specific condition):

Construction/General Operation

1. * The project shall be operated in substantial compliance with the submitted plans as previously approved by the City Council on May 2, 2000, and Planning Commission on March 23, 2005, except that the rear parking lot portion of the plans shall be removed from the site. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. * The facility shall be limited to a maximum of 8,414 square feet of buildable floor area including a maximum of three tenant spaces. Uses permitted at the ground floor level shall be limited to restaurant, retail and personal services. Uses permitted at the upper floor level shall be limited to office, retail, and personal services. No single restaurant operation shall occupy more than 3,000 square feet of building floor area. The front restaurant (if applicable) shall have a maximum of 1,200 square feet of interior seating area and 450 square feet of outdoor seating area. The rear restaurant shall have a maximum of 1,721 square feet of interior seating area, 425 square feet of banquet/entertainment area and 270 square feet of outdoor seating area. Uses permitted at the upper floor level shall be limited to office, retail, and personal services.
3. A Traffic Management Plan shall be submitted in conjunction with any construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed and maintained underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.
5. Detailed plans shall be provided for Community Development review of all improvements and treatments of outdoor areas adjacent to the building prior to issuance of applicable tenant improvement building permits. Alcohol beverages shall be prohibited in all outdoor areas. No improvements or use of the public right-of-way shall occur until issuance of a corresponding encroachment permit by the City Council. Any areas located between the building and the public sidewalk not used for dining area or entry/exit walkways shall be on-grade landscape planter areas. Any site planting plans shall utilize drought tolerant native plants and shall be submitted for review and approval. A low pressure or drip irrigation system shall be installed in the planting areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
6. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.
7. A covered trash enclosure(s), with adequate capacity shall be provided and maintained on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.

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8. * A total of 34 off-site parking spaces shall be provided for the site. This requirement may be satisfied by city merchant parking permits, or other qualifying off-site parking pursuant to Chapter 10.64 of the Manhattan Beach Municipal Code. Parking permit fees and other parking permit requirements shall be provided in conformance with city/property owner agreements established pursuant to the City Council's direction on July 16, 2002.
9. * Outdoor dining area boundaries shall be clearly delineated with railings or other physical barriers.
10. * All new signs and sign changes shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. A sign program identifying allocation and restrictions of signs shall be submitted to and approved by the Community Development Department prior to the issuance of any sign permits.
11. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
12. Any outside sound or amplification system or equipment is prohibited.
13. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
14. Operations shall remain in compliance with all Fire and Building occupancy requirements at all times. The project shall conform to all disabled access requirements subject to the approval of the Building Official.
15. The management of the property shall police the property and all areas immediately adjacent to the businesses during the hours of operation to keep it free of litter.
16. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
17. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
18. The design and construction of patio, planting, and other on-grade areas to be modified at the site's perimeter shall be coordinated and compatible with adjacent public and private improvements as determined to be appropriate by the Community Development Department. Perimeter locations where drainage improvements are specifically determined to be necessary by the Community Development Director shall be improved prior to any service or consumption of beer and wine at the modified front restaurant patio area.
19. The subject project shall contribute an appropriate "fair share" of funding toward the costs associated with upgrading the Morningside Drive sidewalk abutting the site if such a project is initiated prior to January 1, 2007.

Restaurant Operations

20. * A maximum of 2 tenant spaces shall operate as eating and drinking establishment uses. A maximum of one restaurant may include counter customer service only in combination with a method of food preparation that involves interaction and direction from the customers. This use shall not be considered "take-out" restaurant use. Entertainment and dancing shall be permitted for private parties only, Thursday through Saturday, only within the banquet room located at the lower rear corner of the building. The banquet room shall have no exterior windows, doors, or other openings.

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21. * Hours of operation of the restaurants or other ground level uses shall be as follows:

Front (401 MBB)	7am – 11pm, Daily
Rear (1150 Morningside)	9am – 11pm, Sunday through Wednesday 7am – 12am, Thursday through Saturday

All outdoor seating areas shall be closed at 10pm daily.

22. Alcohol service shall only be permitted within the enclosed building and approved plan-designated outdoor areas within private property. Alcohol service shall occur only in conjunction with the service of food to patrons except within the single service bar designated on the submitted plans within the rear restaurant. Alcohol service within the front restaurant shall be limited to beer and wine.

Procedural

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

24. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.

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

26. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action brought against the City challenging the approval of the project.

27. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of March 23, 2005 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary

Site Map
401 Manhattan Beach Blvd.



RESOLUTION NO. PC 02-29

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AMENDMENT FOR THE REMOVAL OF AN APPROXIMATELY 4,000 SQUARE FOOT PARKING LOT ON THE PROPERTY LOCATED AT 401 MANHATTAN BEACH BOULEVARD AND 1148/1150 MORNINGSIDE DRIVE (Ireland Miller, Inc.)

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing, received testimony, and considered an application for a master use permit amendment at its regular meeting of August 28, 2002; for the removal of an existing on-site 4,000 square foot parking lot from an existing site which will retain an 8,414 square foot commercial building on the property legally described as Lots 1 & 2, Block 97, Manhattan Beach Division #2 located at 401 Manhattan Beach Boulevard and 1148/1150 Morningside Drive in the City of Manhattan Beach.
- B. The applicants for the subject project are Ireland Miller Inc. and the City of Manhattan Beach. The application was submitted on July 18, 2002.
- C. Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of the CEQA Guidelines.
- D. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- E. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential.
- F. The General Plan designation for the property is Downtown Commercial.
- G. The Local Coastal Program designation for the property is Downtown Commercial. A coastal development permit is not required since the project does not include a building enlargement or increase in intensity of land use classification.
- H. Approval of the removal of the existing parking lot and the continued operation of the remaining commercial building, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City as detailed in the project Staff Report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. A total of 34 parking spaces are required by this use permit. The property shall comply with this requirement by maintaining 34 city merchant parking permits or other equivalent qualifying off-site parking.
- L. This approval supercedes all previous use permit approvals on the site. This Resolution, upon its effectiveness, constitutes the Master Use Permit for the subject property.

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Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject master use permit application subject to the following conditions (*indicates a site specific condition):

Construction/General Operation

1. * The project shall be operated in substantial compliance with the submitted plans as previously approved by the City Council on May 2, 2000, except that the rear parking lot portion of the plans shall be removed from the site. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. * The facility shall be limited to a maximum of 8,414 square feet of buildable floor area including a maximum of three tenant spaces. Uses permitted at the ground floor level shall be limited to restaurant, retail and personal services. Uses permitted at the upper floor level shall be limited to office, retail, and personal services. No single restaurant operation shall occupy more than 3,000 square feet of building floor area. The front restaurant (if applicable) shall have a maximum of 1,200 square feet of interior seating area and 450 square feet of outdoor seating area. The rear restaurant shall have a maximum of 1,721 square feet of interior seating area, 425 square feet of banquet/entertainment area and 270 square feet of outdoor seating area. Uses permitted at the upper floor level shall be limited to office, retail, and personal services.
3. A Traffic Management Plan shall be submitted in conjunction with any construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed and maintained underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.
5. Detailed plans shall be provided for Community Development review of all improvements and treatments of outdoor areas adjacent to the building prior to issuance of applicable tenant improvement building permits. Alcohol beverages shall be prohibited in all outdoor areas. No improvements or use of the public right-of-way shall occur until issuance of a corresponding encroachment permit by the City Council. Any areas located between the building and the public sidewalk not used for dining area or entry/exit walkways shall be on-grade landscape planter areas. Any site planting plans shall utilize drought tolerant native plants and shall be submitted for review and approval. A low pressure or drip irrigation system shall be installed in the planting areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
6. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.
7. A covered trash enclosure(s), with adequate capacity shall be provided and maintained on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.

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- 8. * A total of 34 off-site parking spaces shall be provided for the site. This requirement may be satisfied by city merchant parking permits, or other qualifying off-site parking pursuant to Chapter 10.64 of the Manhattan Beach Municipal Code.
- 9. * Outdoor dining area boundaries shall be clearly delineated with railings or other physical barriers.
- 10. * All new signs and sign changes shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. A sign program identifying allocation and restrictions of signs shall be submitted to and approved by the Community Development Department prior to the issuance of any sign permits.
- 11. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
- 12. Any outside sound or amplification system or equipment is prohibited.
- 13. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
- 14. Operations shall remain in compliance with all Fire and Building occupancy requirements at all times. The project shall conform to all disabled access requirements subject to the approval of the Building Official.
- 15. The management of the property shall police the property and all areas immediately adjacent to the businesses during the hours of operation to keep it free of litter.
- 16. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
- 17. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
- 18. The existing screen wall near the southeast corner of the site shall be altered or removed to enhance visual aesthetics for the area subject to the timing and review and approval of the Community Development Department.
- 19. The lot portions that comprise the remaining subject site after removal of the on-site parking lot shall be merged to eliminate any antiquated property lines within the site.

Restaurant Operations

- 20. * A maximum of 2 tenant spaces shall operate as eating and drinking establishment uses. A maximum of one restaurant may include counter customer service only in combination with a method of food preparation that involves interaction and direction from the customers. This use shall not be considered "take-out" restaurant use. Entertainment and dancing shall be permitted for private parties only, Thursday through Saturday, only within the banquet room located at the lower rear corner of the building. The banquet room shall have no exterior windows, doors, or other openings.
- 21. * Hours of operation of the restaurants or other ground level uses shall be as follows:
 - Front (401 MBB) 7am – 11pm, Daily
 - Rear (1150 Morningside) 9am – 11pm, Sunday through Wednesday
 - 7am – 12am, Thursday through SaturdayAll outdoor seating areas shall be closed at 10pm daily.

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- 22. Alcohol service shall only be permitted within the enclosed building. Alcohol service shall occur only in conjunction with the service of food to patrons except within the single service bar designated on the submitted plans within the rear restaurant. Alcohol service within the front restaurant shall be limited to beer, wine, and tequila served in mixed drinks known as “margaritas”.

Procedural

- 23. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
- 24. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
- 25. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
- 26. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action brought against the City challenging the approval of the project.
- 27. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of August 28, 2002 and that said Resolution was adopted by the following vote:

AYES: Kirkpatrick, Kuch, Montgomery,
Simon, Chairman Ward
NOES: None
ABSTAIN: None
ABSENT: None

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,

RESOLUTION NO. PC 02-29

Recording Secretary