



## Legislation Text

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**File #:** 18-0208, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Anne McIntosh, Community Development Director  
Jason Masters, Assistant Planner

**SUBJECT:**

Consider a Request to Amend the Use Permit for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar), Including a Change in Hours of Operation and Changes to the Entertainment Permit Requirements (Community Development Director McIntosh).

**a) CONDUCT PUBLIC HEARING**

**b) DIRECT STAFF TO DRAFT A RESOLUTION CONDITIONALLY APPROVING THE APPLICATION**

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**RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing, accept public testimony, close the public hearing and direct staff to prepare a resolution approving one extra hour of operation Thursday through Saturday nights and additional events with entertainment in the 900 Club (upstairs) only, with additional conditions as appropriate.

**EXECUTIVE SUMMARY:**

This is a request to amend an existing use permit to allow an extra hour of operation in the evening, and add additional permitted events with entertainment. The business at 900 Manhattan Avenue is two separate operations. The 900 Club is a private dining and event space on the second floor of the building. The Downstairs Bar is a bar located on the first floor that is open to the public. The use permit controls both areas of the building.

The Planning Commission amended the Use Permit to allow some, but not all of the applicant's requests. Two appeals were filed - one by the property owner and one by a community member. The City Council will conduct a de novo hearing to consider this request.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with the recommended action.

**BACKGROUND:**

In 1995, a Use Permit was approved for a Restaurant/Bar at 900 Manhattan Avenue. In 2014, due to a series of complaints and public safety concerns at the location, a Use Permit Revocation process

was initiated. This resulted in a number of conditions imposed on the two existing businesses, the 900 Club and the Red Room (now Downstairs Bar) to address issues that included the back door, noise, after-hours operations, and nuisance issues, such as loitering, unruliness, and boisterous activities outside of the business.

On December 9, 2015, the Planning Commission held a Public Hearing for the one-year review of the subject Use Permit to assess compliance with the conditions of approval. The Planning Commission felt that the applicant had complied with all conditions of approval and no further annual review or conditions were warranted.

On August 17, 2017, the business owner submitted a request to extend hours of operation by one hour on Thursday nights from 12:00 a.m. to 1:00 a.m., and Friday and Saturday nights from 1:00 a.m. to 2:00 a.m. He also requested 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. On January 24 and February 28, the Planning Commission conducted a Public Hearing. Thereafter, the Commission approved, in part, the application subject to the following conditions:

- 1) The applicant shall provide updated dimensioned floor plans to the Building Official and Fire Marshal in order to reassess occupancy loads for the entire building based on the egress system (Condition #1).
- 2) Deleted: "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 (Condition #4).
- 3) The required security guard shall be required to "direct patrons exiting both establishments to wait for ride-hail services on Manhattan Avenue" (Condition #6).
- 4) The downstairs windows on Manhattan Avenue and 9th Street shall be closed daily after 10:00 pm (Condition #8).
- 5) Increased number of Annual Entertainment Events from 18-24 and reiterated that Entertainment is not permitted downstairs (Condition #12).
- 6) Specifically required occupancy limits to be posted upstairs and downstairs (Condition #17).
- 7) Required new signage stating that smoking is prohibited and occupants need to be respectful of neighbors that shall be posted near the downstairs exit, subject to review and approval of the Director of Community Development (Condition #18).
- 8) 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 (Condition #19).
- 9) The operator shall provide the list of conditions for the business to all employees when they are hired and trained, include those conditions in an employee handbook, and ensure that they are physically available at the bars both upstairs and downstairs (Condition #20).
- 10) The downstairs windows on Manhattan Avenue and 9<sup>th</sup> Street and the 9<sup>th</sup> Street door downstairs shall be closed daily after 10:00 p.m., except for normal ingress and egress of patrons. A self-closing mechanism shall be affixed to the downstairs 9<sup>th</sup> Street door. Signage related to "no smoking and respecting neighbors" as described in condition #15 (Condition #21).
- 11) Required a one-year review (Condition #25).
- 12) The facts and findings stated in Resolution No. 14-0063 are incorporated into this Resolution by reference (Condition #26).

- 13) Required recordation of covenant (Condition #29).
- 14) Added Indemnification and Hold Harmless clause (Condition #30).

On March 26, 2018, a resident filed an appeal addressing alleged “violations in the Planning Commission resolution that violate the Manhattan Beach Municipal Code (MBMC) section 10.104.030(A), violate the California Environmental Quality Act (CEQA), and violate the California Fire Code” (Attachment 5).

On March 28, 2018, the applicant also appealed the Planning Commission decision (Attachment 6) and is requesting that the City Council consider the original request.

## **DISCUSSION:**

The 900 Club and Downstairs Bar are legally approved as a Restaurant/Bar business in the City of Manhattan Beach Downtown Commercial District. Since 2014, residents have filed complaints alleging that the business operations have affected public health and safety, primarily due to noise from amplified sound and patrons.

The City of Manhattan Beach Police Department and Code Enforcement have responded to complaints filed by neighbors. At the February 28<sup>th</sup> meeting, the Police Department submitted a log of complaints from the prior year citing incidents of excessive noise (Attachment 4).

The nature of nightclub/bar establishments adjacent to residential areas is that there will be conflicts between the more active commercial area and the quieter residential areas. Physical improvements can and have been made to deal with sound attenuation.

Additionally, there are a number of operational measures that can be taken to address these issues. Attempts have been made by the business to keep doors and windows closed, limit amplified sound, and address patron behavior by asking them to be considerate to residential neighbors.

Staff feels that it is incumbent upon the business owner to be a “good neighbor” and that City resources should not be necessary to gain compliance. If City Council considers the neighbors’ complaints to be compelling and the associated noise detrimental to quality of life, then this should be taken into account when considering a request for additional hours and events, and should be conditioned accordingly.

Staff believes that the upstairs 900 Club can be afforded additional hours and entertainment events if a new floor plan is provided to the City and new occupancy loads are established. The Fire Marshal and Building Official visited the site on March 5, 2018 to begin this process.

Staff does not support extending the hours or changing conditions related to the Downstairs Bar. This is an ongoing area of concern regarding noise from music and patrons.

Staff recommends that City Council: 1) grant the 900 Club (upstairs only) an additional hour on Thursday (to 1:00 a.m.), Friday and Saturday nights (to 2:00 a.m.), but not extend this to the Downstairs Bar, and 2) grant the requested 24 Entertainment Events, but maintain existing entertainment limits downstairs, according to the Planning Commission conditions listed above, except for #2.

The Council may also consider the following alternative actions:

1. Deny the application, and leave the existing Resolution No. 14-0063 intact.
2. Approve the application granting different requests and amending conditions accordingly.

**PUBLIC OUTREACH/INTEREST:**

Notices of the Public Hearing were provided to all property owners within a 500 foot radius of the project site and published in The Beach Reporter.

As part of the Planning Commission review of the request, City staff conducted a meeting with neighboring residents and the property owner to discuss operational issues that impact quality of life in the neighborhood, and to determine if any additional measures could be taken to reduce these impacts. The Planning Commission considered the results of the meeting when making their decision.

**ENVIRONMENTAL REVIEW**

In accordance with the provisions of the California Environmental Quality Act, 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.

**LEGAL REVIEW**

The City Attorney has reviewed this report and concluded that no legal analysis is necessary.

**Attachments:**

1. Resolution No. 14-0063
2. Planning Commission Resolution No. PC 18-03
3. Planning Commission Meeting Minutes of March 14, 2018
4. Police Department Document (February 28, 2018)
5. Appeal - Donald McPherson
6. Appeal - David Rohrbacher
7. Planning Commission Documents - January 24, 2018 (Web-Link Provided)
8. Planning Commission Documents - February 28, 2018 (Web-Link Provided)
9. Planning Commission Documents - March 14, 2018 (Web-Link Provided)