



# MASTER APPLICATION FORM

RECEIVED  
CLERK'S OFFICE

CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT

2014 JUN -9 AM 11:20

<b>Office Use Only</b>	
Date Submitted:	06/09/2014
Received By:	<i>[Signature]</i>
F&G Check Submitted:	N/A

Shade Hotel, 1221 N Valley Drive, Manhattan Beach CA 90266  
*Project Address*

Lot 2, Block 97, Manhattan Beach Division #2  
*Legal Description*

Downtown Commercial  
*General Plan Designation*

Downtown Commercial Area District III  
*Zoning Designation Area District*

For projects requiring a Coastal Development Permit, select one of the following determinations<sup>1</sup>:

Project located in Appeal Jurisdiction

- Major Development (Public Hearing required)
- Minor Development (Public Hearing, if requested)

Project not located in Appeal Jurisdiction

- Public Hearing Required (due to UP, Var., etc.)
- No Public Hearing Required

DATE APPL - 01/24/2014  
06-09-2014  
C.A.I.I.I.

### Submitted Application (check all that apply)

- |  |  |       |
|--|--|-------|
| <input checked="" type="checkbox"/> Appeal to PC/PPIC/BBA/CC <u>500.00</u> | <input type="checkbox"/> Use Permit (Residential)            | _____ |
| <input type="checkbox"/> Coastal Development Permit                        | <input type="checkbox"/> Use Permit (Commercial)             | _____ |
| <input type="checkbox"/> Environmental Assessment                          | <input type="checkbox"/> Use Permit Amendment                | _____ |
| <input type="checkbox"/> Minor Exception                                   | <input type="checkbox"/> Variance                            | _____ |
| <input type="checkbox"/> Subdivision (Map Deposit) 4300                    | <input type="checkbox"/> Public Notification Fee / \$85      | _____ |
| <input type="checkbox"/> Subdivision (Tentative Map)                       | <input type="checkbox"/> Park/Rec Quimby Fee 4425            | _____ |
| <input type="checkbox"/> Subdivision (Final)                               | <input type="checkbox"/> Lot Merger/Adjustment/\$15 rec. fee | _____ |
| <input type="checkbox"/> Subdivision (Lot Line Adjustment)                 | <input type="checkbox"/> Other                               | _____ |

### Fee Summary: Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_

Amount Due: \$ 500.00 (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: \_\_\_\_\_ Date Paid: \_\_\_\_\_ Cashier: \_\_\_\_\_

### Applicant(s)/Appellant(s) Information

Nathaniel Hubbard  
*Name*

1300 N Ardmore Ave, Manhattan Beach CA 90266  
*Mailing Address*

Resides across Ardmore Ave from Shade  
*Applicant(s)/Appellant(s) Relationship to Property*

Nathaniel Hubbard 310 545 4632 natehubz@mac.com  
*Contact Person (include relation to applicant/appellant) Phone number / e-mail*

1300 N Ardmore Ave, Manhattan Beach CA 90266  
*Address*

*[Signature]* 310 345 1301  
*Applicant(s)/Appellant(s) Signature Phone number*

### Complete Project Description- including any demolition (attach additional pages if necessary)

See attached letter for appeal description.

<sup>1</sup> An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

# OWNER'S AFFIDAVIT

STATE OF CALIFORNIA  
 COUNTY OF LOS ANGELES

I/We Nathaniel Hubbard being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

 5/30/14  
 Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)

Nathaniel Hubbard  
 Print Name

1300 N Ardmore Ave, Manhattan Beach CA 90266  
 Mailing Address

310 545 4632  
 Telephone

*See attached California Jurat with Affiant Statement*

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in and for the County of \_\_\_\_\_ State of \_\_\_\_\_

Notary Public




\*\*\*\*\*

## Fee Schedule Summary





Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply – refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

**Submitted Application (circle applicable fees, apply total to Fee Summary on application)**

*Coastal Development Permit*

- Filing Fee (public hearing – no other discretionary approval required): \$ 4,615 
- Filing Fee (public hearing – other discretionary approvals required): 1,660 
- Filing Fee (no public hearing required – administrative): 920 

*Use Permit*

- Use Permit Filing Fee: \$ 5,200 
- Master Use Permit Filing Fee: 8,255 
- Master Use Permit Amendment Filing Fee: 4,740 
- Master Use Permit Conversion: 4,075 



*Variance*

- Filing Fee: \$ 5,160 

*Minor Exception*


- Filing Fee (without notice): \$ 1,775
- Filing Fee (with notice): 2,020 

*Subdivision*

- Certificate of Compliance: \$ 1,560
- Final Parcel Map + mapping deposit: 515
- Final Tract Map + mapping deposit: 595
- Mapping Deposit (paid with Final Map application): 500
- Merger of Parcels or Lot Line Adjustment: 1,155
- Quimby (Parks & Recreation) fee (per unit/lot): 1,817
- Tentative Parcel Map (4 or less lots / units) No Public Hearing: 915
- Tentative Parcel Map (4 or less lots / units) Public Hearing: 3,325 
- Tentative Tract Map (5 or more lots / units): 4,080 

*Environmental Review (contact Planning Division for applicable fee)*

- Environmental Assessment (no Initial Study prepared): \$ 215
- Environmental Assessment (if Initial Study is prepared): 2,260
- Fish and Game/CEQA Exemption County Clerk Posting Fee<sup>2</sup>: 75

 *Public Notification Fee* applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable: \$ 85

<sup>2</sup>Make a separate \$75 check payable to LA County Clerk, (DO NOT PUT DATE ON CHECK)

# CALIFORNIA JURAT WITH AFFIANT STATEMENT

See Attached Document (Notary to cross out lines 1-5 below)  
 See Statement Below (Lines 1-4 to be completed only by document signer[s], not Notary)

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 \_\_\_\_\_

State of California  
County of Los Angeles

Subscribed and sworn to <sup>AMS</sup> (or affirmed) before me on this  
30<sup>th</sup> day of May, 2014, by  
Date Month Year

(1) Nathaniel Evans Hubbard  
Name of Signer

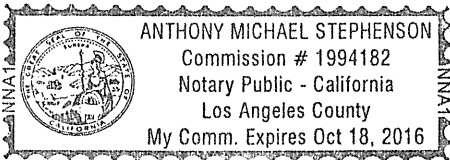
proved to me on the basis of satisfactory evidence to be the person who appeared before me (.)

(and)

(2) \_\_\_\_\_  
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature A. Stephenson  
Signature of Notary Public



Place Notary Seal Above

## -----OPTIONAL-----

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Further description of Any Attached Document

Title or Type of Document: City of Manhattan Beach Master Application Form

Document Date: May 30, 2014 Number of Pages 2

Signer(s) Other Than Named Above: N/A



# MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only

Date Submitted: \_\_\_\_\_  
Received By: \_\_\_\_\_  
F&G Check Submitted: \_\_\_\_\_

Shade Hotel, 1221 N Valley Drive, Manhattan Beach CA 90266  
*Project Address*

Lot 2, Block 97, Manhattan Beach Division #2  
*Legal Description*

Downtown Commercial  
*General Plan Designation*

Downtown Commercial Area District III  
*Zoning Designation Area District*

For projects requiring a Coastal Development Permit, select one of the following determinations<sup>1</sup>:

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

Major Development (Public Hearing required)

Public Hearing Required (due to UP, Var., etc.)

Minor Development (Public Hearing, if requested) etc.)

No Public Hearing Required

**Submitted Application** (check all that apply)

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Appeal to PC/PPIC/BBA/CC _____ | <input type="checkbox"/> Use Permit (Residential) _____            |
| <input type="checkbox"/> Coastal Development Permit _____          | <input type="checkbox"/> Use Permit (Commercial) _____             |
| <input type="checkbox"/> Environmental Assessment _____            | <input type="checkbox"/> Use Permit Amendment _____                |
| <input type="checkbox"/> Minor Exception _____                     | <input type="checkbox"/> Variance _____                            |
| <input type="checkbox"/> Subdivision (Map Deposit)4300 _____       | <input type="checkbox"/> Public Notification Fee / \$85 _____      |
| <input type="checkbox"/> Subdivision (Tentative Map) _____         | <input type="checkbox"/> Park/Rec Quimby Fee 4425 _____            |
| <input type="checkbox"/> Subdivision (Final) _____                 | <input type="checkbox"/> Lot Merger/Adjustment/\$15 rec. fee _____ |
| <input type="checkbox"/> Subdivision (Lot Line Adjustment) _____   | <input type="checkbox"/> Other _____                               |

**Fee Summary:** Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_

Amount Due: \$ \_\_\_\_\_ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: \_\_\_\_\_ Date Paid: \_\_\_\_\_ Cashier: \_\_\_\_\_

**Applicant(s)/Appellant(s) Information**

Donald McPherson

*Name*

1014 1st St, Manhattan Beach CA 90266

*Mailing Address*

Manhattan Beach resident, with residential business property in the Downtown area

*Applicant(s)/Appellant(s) Relationship to Property*

Nathaniel Hubbard

310 545 4632 natehubz@mac.com

*Contact Person (include relation to applicant/appellant)*

*Phone number / e-mail*

1300 N Ardmore Ave, Manhattan Beach CA 90266

*Address,*

310 372 2774

*Applicant(s)/Appellant(s) Signature*

*Phone number*

**Complete Project Description- including any demolition** (attach additional pages if necessary)

See attached letter for appeal description.

<sup>1</sup> An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

# OWNER'S AFFIDAVIT

STATE OF CALIFORNIA  
 COUNTY OF LOS ANGELES

I/We Donald McPherson being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

 ~~30 April 2014~~ 28 May 2014  
 Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)

Donald McPherson  
 Print Name

1014 1st St, Manhattan Beach CA 90266  
 Mailing Address

310 372 2774  
 Telephone

Subscribed and sworn to before me,  
 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 in and for the County of \_\_\_\_\_  
 State of \_\_\_\_\_ see Attached












Notary Public


\*\*\*\*\*

## Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply – refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

**Submitted Application (circle applicable fees, apply total to Fee Summary on application)**

<i>Coastal Development Permit</i>	
Filing Fee (public hearing – no other discretionary approval required):	\$ 4,615 
Filing Fee (public hearing – other discretionary approvals required):	1,660 
Filing Fee (no public hearing required – administrative):	920 
<i>Use Permit</i>	
Use Permit Filing Fee:	\$ 5,200 
Master Use Permit Filing Fee:	8,255 
Master Use Permit Amendment Filing Fee:	4,740 
Master Use Permit Conversion:	4,075 
<i>Variance</i>	
Filing Fee:	\$ 5,160 
<i>Minor Exception</i>	
Filing Fee (without notice):	\$ 1,775
Filing Fee (with notice):	2,020 
<i>Subdivision</i>	
Certificate of Compliance:	\$ 1,560
Final Parcel Map + mapping deposit:	515
Final Tract Map + mapping deposit:	595
Mapping Deposit (paid with Final Map application):	500
Merger of Parcels or Lot Line Adjustment:	1,155
Quimby (Parks & Recreation) fee (per unit/lot):	1,817
Tentative Parcel Map (4 or less lots / units) No Public Hearing:	915
Tentative Parcel Map (4 or less lots / units) Public Hearing:	3,325 
Tentative Tract Map (5 or more lots / units):	4,080 
<i>Environmental Review (contact Planning Division for applicable fee)</i>	
Environmental Assessment (no Initial Study prepared):	\$ 215
Environmental Assessment (if Initial Study is prepared):	2,260
Fish and Game/CEQA Exemption County Clerk Posting Fee <sup>2</sup> :	75

 *Public Notification Fee* applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable: \$ 85

<sup>2</sup>Make a separate \$75 check payable to LA County Clerk, **(DO NOT PUT DATE ON CHECK)**

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

X See Attached Document (Notary to cross out lines 1-5 below)  
\_\_\_ See Statement Below (Lines 1-4 to be completed only by document signer[s], not Notary)

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 \_\_\_\_\_

State of California  
County of Los Angeles

Subscribed and sworn to (~~or affirmed~~) <sup>AND</sup> before me on this  
30<sup>th</sup> day of May, 2014, by  
Date Month Year

(1) Donald McPherson  
Name of Signer

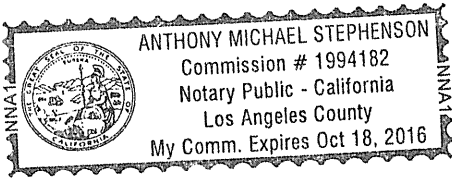
proved to me on the basis of satisfactory evidence  
to be the person who appeared before me (.) ~~(X)~~

(and)

(2) \_\_\_\_\_  
Name of Signer

proved to me on the basis of satisfactory evidence  
to be the person who appeared before me.

Signature A Stephenson  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent  
fraudulent removal and reattachment of this form to another document.

Further description of Any Attached Document

Title or Type of Document: City of Manhattan Beach Master Application Form

Document Date: May 30, 2014 Number of Pages 2

Signer(s) Other Than Named Above: N/A

# OWNER'S AFFIDAVIT

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

I, Wayne Partridge being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

[Signature]  
Signature of Property Owner(s) - (Not Owner in Escrow or Lessee)

Wayne Partridge  
Print Name

Print Name

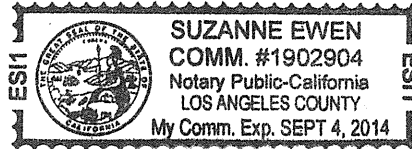
3520 The Strand, Manhattan Beach CA 90266  
Mailing Address

Mailing Address

310 545 3265  
Telephone

Telephone

Subscribed and sworn to before me,  
this 2 day of June, 2014  
in and for the County of Los Angeles  
State of CA



Notary Public

\*\*\*\*\*

## Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply - refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

### Submitted Application (circle applicable fees, apply total to Fee Summary on application)

#### Coastal Development Permit

Filing Fee (public hearing - no other discretionary approval required): \$ 4,615   
Filing Fee (public hearing - other discretionary approvals required): 1,660   
Filing Fee (no public hearing required - administrative): 920

#### Use Permit

Use Permit Filing Fee: \$ 5,200   
Master Use Permit Filing Fee: 8,255   
Master Use Permit Amendment Filing Fee: 4,740   
Master Use Permit Conversion: 4,075

#### Variance

Filing Fee: \$ 5,160

#### Minor Exception

Filing Fee (without notice): \$ 1,775  
Filing Fee (with notice): 2,020

#### Subdivision

Certificate of Compliance: \$ 1,560  
Final Parcel Map + mapping deposit: 515  
Final Tract Map + mapping deposit: 595  
Mapping Deposit (paid with Final Map application): 500  
Merger of Parcels or Lot Line Adjustment: 1,155  
Quimby (Parks & Recreation) fee (per unit/lot): 1,817  
Tentative Parcel Map (4 or less lots / units) No Public Hearing: 915  
Tentative Parcel Map (4 or less lots / units) Public Hearing: 3,325   
Tentative Tract Map (5 or more lots / units): 4,080

#### Environmental Review (contact Planning Division for applicable fee)

Environmental Assessment (no Initial Study prepared): \$ 215  
Environmental Assessment (if Initial Study is prepared): 2,260  
Fish and Game/CEQA Exemption County Clerk Posting Fee<sup>2</sup>: 75

Public Notification Fee applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable: \$ 85

<sup>2</sup>Make a separate \$75 check payable to LA County Clerk, (DO NOT PUT DATE ON CHECK)

**DESCRIPTION OF APPEAL: RESOLUTION NO. PC 14-07, SHADE HOTEL**

9 June 2014

City Council  
City of Manhattan Beach  
1400 Highland Ave  
Delivered in Person

Subject: Appeal of Resolution No. PC 14-07 [the "2014 CUP"], Shade Hotel, 1221 N Valley Dr  
Mayor Howorth and Council Members,

We submit for your consideration, our appeal of the subject resolution. We base our appeal on the deficiencies cited in Exhibit 1, attached to this letter. First, however, we address an item of utmost importance, namely, our negotiations with Mr. Zislis to identify effective noise mitigation measures, which the approval of the resolution regrettably terminated.

**Appeal Hearing Postponement to Enable Negotiations.**

For the negotiations to succeed, we request postponement of the appeal hearing, from the statutory date of July 1, to September 2. With the 900 Club appeal postponed to August 19, it appears the council cannot hear Shade until the first meeting in September.

We progressed quite far in negotiating mitigation measures with Mr. Zislis but needed more time to bring our cordial discussions to fruition. Unfortunately, as per below, staff preempted the negotiations, by letting the resolution go to vote at the May 28 hearing, despite our request to complete with Mr. Zislis the formulation of effective noise-mitigation measures.

Staff has erroneously applied a provision in the state building code, so that it rules out enclosure of the ground-level terrace by a door at the south side. Their misunderstanding of the code section precluded the commission from considering this crucial mitigation measure.

Planning commissions in both 2009-2010 and in 2014 have identified the open-air terrace as the major source of noise that disturbs residents.

The City's acoustic contractor has emphatically stated in their recent report and in testimony, that enclosure of the terrace by a door at the south entrance constitutes the only effective measure to mitigate noise. To that desirable goal, our parallel negotiations with Mr. Zislis showed considerable promise for implementing the terrace door.

At the May 28 hearing, the commissioners initially expressed support for the terrace south door. Unfortunately, in both the subject resolution and in testimony, staff maintained that the Fire Department requires the terrace south entrance to remain open, for emergency rescue from the three rooms with balconies overlooking the terrace.

As result, the commissioners withdrew their support for the terrace south door, thereby triggering this appeal.

The Fire Department has never publically opposed a code-compliant terrace door, nor did they in a November 2013 meeting with us.

Staff claims that the terrace must remain open for emergency access to the balconies of the three guest rooms overlooking the area, pursuant to state code. For Shade Hotel, the state building code requires each room to have access to two exits, pursuant to Title 24, Part 2,



**DESCRIPTION OF APPEAL: RESOLUTION NO. PC 14-07, SHADE HOTEL**

Section 1021 and Table 1021.1. Every room in the hotel has two independent paths that access two or more of the five exits on the ground floor.

To substantiate their claim, staff cites Section 1029 in the state code, which requires emergency access for certain residential uses, but specifically does not apply to Shade. Section 1029 on emergency access applies only to residential Group R-2 and Group R-3 occupancies, but not to Group R-1 occupancy for hotels with transient occupancy, such as Shade, the Belamar or Marriott. These hotels have Group R-1 occupancy, pursuant to state code Title 24, Part 2, Section 310.3.

Consequently, the city should postpone our appeal to September. Thereby, Mr. Zislis and we can propose effective noise mitigation measures, which must include the terrace door.

At the May 28 hearing, Mr. Zislis acknowledged the inevitability of the appeal, by testifying that he would work with the residents at the city council hearing, to approve items they want. Presumably, that corresponds to the noise mitigation measures that the planning commission and staff left out of Resolution No. PC 14-07.

**Grounds for Appeal.**

The attached Exhibit 1 cites our grounds for appeal. Since January 2014, we have submitted to the planning commission documented evidence in the record that substantiates each grounds.

Pursuant to Grounds 2 and 3, feasible mitigation measures exist to soundproof the outdoor south terrace and the Zinc nightclub, but according to Finding H in the 2014 CUP, the City has chosen not to require them.

Regarding Grounds 1, staff has misstated the intent of Section 1029 in the state code for emergency access to guest rooms overlooking the terrace, so that it precludes doors to close the south entrance. The City's acoustic expert deemed it necessary to close the terrace entrance with doors. This error by staff will nullify the 2014 CUP, pursuant to MBMC 10.104.030(D)(1), *"That the permit was issued on the basis of erroneous or misleading information or misrepresentation."*

In similar violation of the municipal code, as per Grounds 9, staff failed to provide evidence to the PC that we requested, regarding occupancy limits approved for the 2005 CUP. This transgression will also nullify the 2014 CUP, pursuant to MBMC 10.104.030(D)(1).

**Conclusions.**

We appreciate your consideration of both the appeal and the request to postpone the hearing to September, so that we can complete our negotiations with Mr. Zislis.

Nate Hubbard  
1300 N Ardmore Ave

Wayne Partridge  
3520 The Strand

Don McPherson  
1014 1<sup>st</sup> St

**DESCRIPTION OF APPEAL: RESOLUTION NO. PC 14-07, SHADE HOTEL**

**EXHIBIT 1. GROUNDS FOR APPEAL.**

1. **Misrepresentation of Fire Code.** Staff has misapplied Section 1029 in the state building code, as requiring that the terrace south entrance must remain open for emergency access to the three guest rooms therein. Their error will nullify the 2014 CUP, pursuant to MBMC 10.104.030(D)(1);
2. **Door for Terrace Enclosure.** The terrace must have a door for the south entrance, to meet the noise reduction required by the City's acoustic expert, but the resolution does not require it;
3. **Soundproofing Lobby Façade.** The inadequate physical mitigation for the lobby, as specified by the resolution, reduces noise by only an indiscernible amount;
4. **Increased SkyDeck Closing Time.** The resolution increases the rooftop Skydeck closing time to 10:30 PM, from 10:00 PM in the 2005 CUP, without any offsetting noise mitigation;
5. **Violation of Parking Requirement.** Compared to the 2005 CUP, the resolution expands the Zinc Lounge to incorporate the lobby area and adds special events to both the terrace and rooftop SkyDeck, thereby increasing parking requirements by 31 spaces, in violation of the parking ordinance, municipal code chapter MBMC 10.64;
6. **Coastal Permit Amendment.** For any change in intensification of use, the Local Coastal Program requires modification to the coastal development permit for Metlox, pursuant to LCP A.96.040 and A.96.030(L). Compared, to the 2005 CUP, the resolution increases intensity by: 1) 154 more occupants in the Zinc Lounge, the terrace and the rooftop Skydeck; 2) Extended Zinc Lounge hours from 11 PM to midnight daily, terrace hours from morning breakfast to 11 PM Fri-Sat, and Skydeck hours to 10:30 PM daily; 4) Dancing throughout the hotel, rather than on the designated 15'x20' area in the Zinc Lounge; and, 5) Operation of a full-scale restaurant, with outdoor menus;
7. **CEQA Initial Study.** The aforementioned intensifications granted by the resolution require an initial study for modification of the Metlox Environmental Impact Report [EIR], pursuant to CEQA, Public Resources Code §21080(c)(2);
8. **2005 CUP Violations.** For any violations of terms and conditions in the 2005 CUP, the municipal code section MBMC 10.84.090(D) requires modification of the use permit, pursuant to MBMC 10.104.030, Revocation and Modification. The resolution fails to make the finding that Shade violates the following conditions in the 2005 CUP: 1) An acoustic wall rated at Sound Transmission Coefficient STC-50 between the Zinc Lounge and the hotel lobby; 2) Closing hours for the terrace; 3) Occupancies of 77 for the Zinc Lounge, 22 for the terrace and 45 for the rooftop SkyDeck; 4) Special events on the terrace and SkyDeck; 5) No lunch service, no full-scale restaurant and no outdoor menus; and, 6) The noise ordinance, MBMC 5.48, per two citations from the MBPD; and,
9. **Staff Failed to Provide Evidence to the PC Regarding 2005 CUP Occupancies.** Staff failed to provide the PC with evidence regarding occupancy requirements approved for the 2005 CUP. On May 19, we submitted a demand letter requiring staff to provide specific excerpts from the August 2014 building permit and the Exhibit F plans from the May 2005 staff report, regarding occupancy limits. Staff failure will nullify the 2014 CUP, pursuant to MBMC 10.104.030(D)(1).