



MASTER APPLICATION FORM

PAID 47001-01343539 05-27-2014

CITY OF MANHATTAN BEACH COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only Date Submitted: 5/22/14 Received By: [Signature] F&G Check Submitted: [Signature]

RECEIVED CITY CLERK'S OFFICE 2014 MAY 27 AM 11:27

900 Club/Red Room; 900 Manhattan Ave, Manhattan Beach CA 90266

Project Address

Lot 6, Block 69, Manhattan Beach Division #2

Legal Description

Downtown Commercial

Downtown Commercial Area District III

General Plan Designation

Zoning Designation Area District

For projects requiring a Coastal Development Permit, select one of the following determinations:

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

[ ] Major Development (Public Hearing required)

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

[ ] Minor Development (Public Hearing, if requested)

[ ] No Public Hearing Required

Submitted Application (check all that apply)

- (X) Appeal to PC/PPIC/BB/ACC \$500 ( ) Use Permit (Residential)
( ) Coastal Development Permit ( ) Use Permit (Commercial)
( ) Environmental Assessment ( ) Use Permit Amendment
( ) Minor Exception ( ) Variance
( ) Subdivision (Map Deposit)4300 ( ) Public Notification Fee / \$85
( ) Subdivision (Tentative Map) ( ) Park/Rec Quimby Fee 4425
( ) Subdivision (Final) ( ) Lot-Merger/Adjustment/\$15 rec. fee
( ) Subdivision (Lot Line Adjustment) (X) Other APPEAL \$500

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

Owner of residential property at 213 10th St, one block north of 900 Manhattan Ave

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

Donald McPherson

Contact Person (include relation to applicant/appellant) Phone number / e-mail

1014 1st St, Manhattan Beach CA 90266 310 487 0383 dmcphersonla@gmail.com

Address

[Signature] 310 487 0383

Applicant(s)/Appellant(s) Signature Phone number

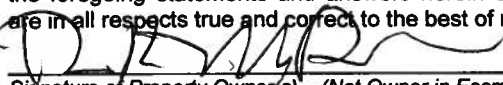
Complete Project Description- including any demolition (attach additional pages if necessary)

On 14 May 2014, for the subject property, the planning commission approved Resolution No. PC 14-06 with the following deficiencies: 1) No requirement for an annual entertainment permit; 2) Operating hours midnight Sun-Thu and 1:00 AM Fri-Sat; 3) Patron use of 9th St door directly opposite residences; 4) Patron use of rear door directly opposite Bayview Dr and 9th St residences; 5) Live entertainment increased for all hours of operation; 6) Inadequate physical noise mitigation; 7) No additional parking, as required for Red Room live entertainment; and, 8) No approved plans for required noise mitigation. These deficiencies preclude the findings required to prevent adverse impacts on adjoining residential uses, pursuant to MBMC 10.84.060. Additionally, the changes in intensity of use require a coastal development permit, pursuant to LCP A.96.040 and A.96.030(L).

# 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).

  
 Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)

Donald McPherson

Print Name

1014 1st St, Manhattan Beach CA 90266

Mailing Address

310 487 0383

Telephone

Subscribed and sworn to before me,  
 this 27 day of May, 2014  
 in and for the County of LA  
 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)**

<b>Coastal Development Permit</b>	
Filing Fee (public hearing – no other discretionary approval required):	\$ 4,615 <input checked="" type="checkbox"/>
Filing Fee (public hearing – other discretionary approvals required):	1,660 <input checked="" type="checkbox"/>
Filing Fee (no public hearing required – administrative):	920 <input checked="" type="checkbox"/>
<b>Use Permit</b>	
Use Permit Filing Fee:	\$ 5,200 <input checked="" type="checkbox"/>
Master Use Permit Filing Fee:	8,255 <input checked="" type="checkbox"/>
Master Use Permit Amendment Filing Fee:	4,740 <input checked="" type="checkbox"/>
Master Use Permit Conversion:	4,075 <input checked="" type="checkbox"/>
<b>Variance</b>	
Filing Fee:	\$ 5,160 <input checked="" type="checkbox"/>
<b>Minor Exception</b>	
Filing Fee (without notice):	\$ 1,775
Filing Fee (with notice):	2,020 <input checked="" type="checkbox"/>
<b>Subdivision</b>	
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 <input checked="" type="checkbox"/>
Tentative Tract Map (5 or more lots / units):	4,080 <input checked="" type="checkbox"/>
<b>Environmental Review (contact Planning Division for applicable fee)</b>	
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
<input checked="" type="checkbox"/> 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)

## Angelica Ochoa

---

**From:** Don McPherson <dmcphersonla@gmail.com>  
**Sent:** Tuesday, May 27, 2014 12:12 PM  
**To:** Angelica Ochoa  
**Cc:** Esteban M. Danna  
**Subject:** Typo in My 900 Club Appeal

Angelica,

I noticed a typo in the appeal I filed today for 900 Manhattan Ave. I checked the box for location in the coastal Appealable Jurisdiction. I should have checked the box for not located in the Appeal Jurisdiction.

Please note this typo correction on my appeal.

Thanks,

Don McPherson  
1014 1<sup>st</sup> St, Manhattan Beach CA 90266  
Cell: 310 487 0383  
[dmcphersonla@gmail.com](mailto:dmcphersonla@gmail.com)

## Don McPherson

---

**To:** Amy Howorth (ahoworth@citymb.info); Wayne Powell (wpowell@citymb.info); Mark Burton (mburton@citymb.info); Tony D'Errico (tderrico@citymb.info); David Lesser (dlesser@citymb.info)

**Cc:** Mark Danaj (mdanaj@citymb.info); Liza Tamura (LTamura@citymb.info); Quinn Barrow (qbarrow@citymb.info); Joan Jenkins (jjenkins@citymb.info); Eve Irvine (eirvine@citymb.info); Richard Thompson (rthompson@citymb.info); Laurie Jester (ljester@citymb.info); Angelica Ochoa (aochoa@citymb.info); Rosanna Libertucci (househunt@roadrunner.com); Mark Tuccinardi (00tucci@gmail.com); Wayne Partridge (wepmako@gte.net); Beverly Palmer (bpalmer@strumwooch.com)

**Subject:** Appellant Input for 900 Club Appeal, 19 Aug 2014

City Council  
City of Manhattan Beach  
Manhattan Beach CA 90266

Via Email

Subject: Residents Input for 900 Club Appeal, 19 August 2014

Mayor Howorth and Councilmembers,

I submit the attached input on the subject appeal for your consideration. The City rightfully brought a use-permit revocation action against the 900 Club for impacting the quiet enjoyment and safety of the adjoining neighborhood. Regrettably, despite hard work by all parties, the resulting Resolution No. PC 14-06 differs in title only from the current CUP.

Fortunately, by taking the bold stroke of reducing closing times and withdrawing privileges for amplified music and dancing, the city council can decisively modify Reso 14-06 to stop the disturbances, with an hour of deliberation on August 19.

The appeal provides a redlined Reso 14-06 and a one-page checklist for councilmembers to evaluate the 19 recommended changes, some of which erase entire lengthy conditions.

The council has the justification and authority to take this action. As our analysis proves, of 24 CUP approvals for alcohol-serving establishments in the beach area since 2000, twenty restrict entitlements to the big three of how to stop a public nuisance, without destroying the business:

- Limit closing hours to 11 PM Sunday-Thursdays and midnight Friday-Saturday;
- No amplified entertainment, live or recorded; and,
- No dancing.

No sensible zoning would locate amplified entertainment and dancing next door to residences, for the 900 Club, directly across 9<sup>th</sup> St and Bayview Drive. I own a residential building on Bayview Drive, one block north of 900 Manhattan Ave. I participated in the revocation hearings during 1994, which resulted in the city council adding dancing to the entitlements. History repeats itself, with Reso 14-06 adding non-amplified entertainment for all operation hours, in addition to the amplified music on Thursday through Saturday.

The council has the authority to stop the disturbances. The City brought this action under municipal code Section 10.104.030, which mandates whatever it takes, to correct violations of the use permit and municipal code.

Reso 14-06 does one thing right. It fills two of six CUP pages with findings of infractions by the 900 Club of its CUP and the municipal code.

The conditions in Reso 14-06 tell another story. In their May 14 report, staff "feels" that the use permit will solve the problems, to wit, *"Staff feels that the proposed conditions are consistent with other*

*establishments with similar operations, more enforceable and addresses all concerns.”* This sentence expresses the sum total of all substantiation in the record for Reso 14-06.

As result, the city council has no evidence on which to make the required findings to approve Reso 14-06. The attached legal opinion by Strumwasser & Woocher presents the legal arguments why the council cannot make the required findings.

Unlike staff, this appeal substantiates every single statement with documented evidentiary facts, as per the attached inputs.

Thanks for your consideration of this appeal,

Don McPherson, Appellant

Attachments: 1) Appeal Input; and, 2) Strumwasser & Woocher Legal Opinion

Distribution: M Danaj, Q Barrow, J Jenkins, E Irvine, L Tamura, R Thompson, L Jester, A Ochoa, B Palmer (Strumwasser & Woocher), Residents

## **STRAIGHTFORWARD SOLUTION TO 900 CLUB DISTURBANCES**

### **DISTURBANCE SOLUTION SUMMARY.**

#### **The New Reso 14-06 = the Current Use Permit, Reso 5155.**

The city undertook the use permit revocation-modification, to stop disturbances by the private 900 Club at 900 Manhattan Ave. In terms of use intensity, the new permit, Reso 14-06, differs in no material way from its predecessor, Reso 5155 approved in 1995. As result, the council cannot make the required findings to approve Reso 14-06. Oddly, the planning commission failed to make the required findings in Reso 14-06, as well.

In the accompanying letter to the city council from Strumwasser & Woocher, they present the legal arguments why the council cannot make the required findings for Reso 14-06.

The hours remain unchanged: midnight weekdays and 1 AM Friday-Saturday. Live entertainment has **actually increased**, expanded to include non-amplified performers seven days a week, in addition to the amplified music permitted Thursday-Saturday by Reso 5155.

The 900 Club installed some window mitigation, but no building plans, analyses or tests exist to determine its effectiveness. No matter. The doors facing residences on 9<sup>th</sup> St and Bayview Drive will remain in use, and when open, will nullify the minimal window mitigation.

The outdoor party-patio at the 900 Club rear door adjacent to residences will remain active. Reso 14-06 prohibits patrons from using the rear door after 10 PM. So did City Attorney Wadden in 2004. The 900 Club paid no attention to his directive, nor will they to the city now.

Finally, staff has exempted 900 Manhattan Ave from the entertainment permit required by municipal code Chapter 4.20. They did not enforce the entertainment permit required by Reso 5155 and have totally removed any reference to it in Reso 14-06. As Commissioner Conaway remarked at both 900 Club and Shade Hotel hearings, the entertainment permit provides the "big hammer" for staff to control unlawful behavior. Unfortunately, Community Development never used this powerful tool to stop the 900 Club disturbances.

#### **Straightforward Solution to 900 Club Disturbances.**

To authoritatively solve this problem, the city council has at their disposal an oft-used practice in the Downtown for the past 15 to 20 years. Reduce closing time and prohibit both amplified music and dancing. Previous city councils have so ruled in the vast majority of use permits approved for the beach area. Please honor their lead and maintain this practice.

Since 2000 for the beach area, the city has approved 24 use permits, either new applications or modifications. Of these, 20 have closing times of 11 PM weekdays and midnight Friday and Saturday, or even sooner. Shade Hotel has an earlier closing time, 11 PM every day. Except for Shade, none of these 23 establishments had live entertainment granted since 2000.

It would appear that the city has not approved a use permit with late hours, amplified music and dancing, since Reso 5155 in 1995, which granted dancing to 900 Manhattan Ave.

Obviously, the city has an undocumented standard for the Downtown that will stop the 900 Club disturbances. The city council should apply that standard to 900 Manhattan Ave, to put it on equal footing with its competitors. The city has the authority to scale back entitlements, by virtue of conducting the appeal under municipal code Section 10.104.030.

The 150+ members who have expressed support for their club should agree. None of them cited the need to party at a nightclub, open to midnight or later, with music and dancing.

## **STRAIGHTFORWARD SOLUTION TO 900 CLUB DISTURBANCES**

### **PRESENTATION OF EVIDENTIARY FACTS.**

This section provides the facts that support statements in the above summary, in context of requested modifications to Reso 14-06, as provided in the redlined version, Exhibit 1. For brevity, the discussion below addresses the most salient facts. Exhibit 2 provides a one-page index that addresses all changes in the Exhibit 1 redlined CUP. Staff did not require building plans to specify the physical mitigation required by Reso 14-06, so the Exhibit 3 drawings show conceptual mitigation, based on floor plans from the 1995 Reso 5155 CUP.

The council can quickly consider each of the modifications requested by this appeal, as delineated in Exhibits 1 and 2. At the May 14 hearing, when the planning commission ["PC"] approved Reso 14-06, the commissioners chose not to consider our use-permit modifications. [Video 2:29:45 hh:mm:ss]. Therefore, the council should correct that mistaken oversight, by reviewing each of the proposed changes to Reso 14-06, as listed in Exhibit 2.

#### **1.0. Disturbance Evidence.**

In Reso 14-06, Section 8, the planning commission made exhaustive findings that the 900 Club violates its Reso 5155 use permit and the municipal code, specifically the Noise Ordinance, Chapter 5.48. The Police Department ["PD"] and the City Prosecutor provided the preponderance of the evidence, in terms of citations and court cases, as documented in the staff report for the February 26 hearing, Exhibits C and D, respectively.

The written record lacks the evidence, however, regarding the multi-year unsuccessful effort undertaken by the PD and prosecutor to obtain compliance by the 900 Club management. Councilmembers should view the testimony by Chief Irvine and Prosecutor Jenkins, by clicking either on YouTube <http://youtu.be/wpvQ-2potMI> or DropBox [900Club-Violations-Irvine-Jenkins-Testimony-26Feb2014](#). According to the city attorney, the meeting videos constitute the official minutes, so please review the video evidence presented herein.

#### **2.0. City Policy to Restrict Hours, Music and Dancing in the Downtown.**

**2.1. Closing Time.** At the February 26 hearing, Commissioner Gross and Chairman Conaway expressed their intent to require an earlier closing time. Staff decided to keep the current hours for the 900 Club, however, as stated in Section 11 Condition 1 of Reso 14-06. When approving the CUP, without comment, the PC accepted staff's decision for closing times.

At the February meeting, Commissioner Gross observed that "...the building is acoustically terrible..." and could not be fixed without "big changes." Therefore, as an alternative, he proposed an 11 PM closing time. [Video: 3:36:17 hh:mm:ss]

Chairman Conaway observed that in the 150 to 160 letters from club members, none required a nightclub with live entertainment and post-midnight closing hours. Therefore, he supported Mr. Gross's proposal for an 11 PM closing time. [Video 3:43:20 & 3:45:50]

Please view the video evidence of commissioner discussion on an earlier closing time, at YouTube <http://youtu.be/f1LsKGk-C68> or DropBox [26Feb2014-PC-900Club-EarlierClosingTime](#).

The Exhibit 1 redline changes closing times in Reso 14-06 Condition 1 consistent with Downtown CUP's approved during the past fifteen years: **11 PM Sun-Thu and midnight Fri-Sat, which the council should approve.**

**2.2. Live Entertainment.** The city has an established practice in the beach area, to restrict closing times to midnight or before, while not permitting live entertainment. The

## STRAIGHTFORWARD SOLUTION TO 900 CLUB DISTURBANCES

statistics in Exhibit 4 establish these facts, derived from Exhibit K in the staff report for the 900 Club hearing on February 26.

Exhibit K lists 87 establishments that serve alcohol in Manhattan Beach. Of these, only nine have live entertainment. Examination of Exhibit K also discloses that the city applies the closing-hour standard condition of 11 PM weekdays and midnight weekends to establishments outside the beach area, when located near residences.

Exhibit 4 lists 24 establishments in the beach area, for which the city approved use permits since 2000, in response to applications for new CUP's or modifications to existing. The statistics speak for themselves:

- Of 24 permits granted, 20 restrict closing time to the 11PM/midnight condition, or earlier;
- Of the four premises with later hours, Sharks Cove, Strand House and MB Brewing had grandfathered closing times;
- Only Petros had hours increased, by 30 minutes. Petros has no live entertainment;
- Strand House had its weekday closing time *decreased* from 1 AM to midnight; and,
- Since 2000 and perhaps before, except for Shade Hotel, the city has never granted a new entitlement for live entertainment in the beach area.

The city practice for reducing entitlements has resulted from negotiations with owners, such as exchanging a reduction in hours for upgrading alcohol licenses from beer and wine to distilled spirits. The 900 Club obviously has no motivation to subject itself to negotiations.

The 900 Club did recklessly expose itself, however, to having entitlements taken away forcibly, by continuously violating its use permit and the municipal code, since 2003 when they started business. They have acted irresponsibly, despite the best efforts by the PD and the city prosecutor to obtain cooperation and compliance. For example, after receiving notice of the impending revocation hearing in January, a month later, the 900 Club garnered another complaint filed in superior court, for a blast in February.

For blatant example of a closing time violation, please review the video evidence of a mass one-minute exodus by 900 Club patrons at 3 AM. Click either on YouTube: <http://youtu.be/gYHsT3LyCqo> or on DropBox: [6Oct2012-900Club-MassExodus-3AM](https://www.dropbox.com/s/6Oct2012-900Club-MassExodus-3AM).

The council can now put 900 Manhattan Ave on the same basis as its competitors, pursuant to MBMC 10.104.030, for mandatory modification of use permits. The council has the authority to reduce closing time to the 11 PM/midnight standard condition and to eliminate amplified entertainment and dancing. **Please take this action to stop 900 Club disturbances.**

The council action will also greatly simplify Reso 14-06, by deleting Conditions 8 and 9, while significantly reducing Condition 6, as shown in the red-lined CUP, Exhibit 1.

### **3.0. Close the Doors Facing Residences on 9<sup>th</sup> St and Bayview Drive.**

The council knows about the five-year saga to require double doors for the lobby entrance to Shade Hotel, to prevent line of sight from Zinc Lounge noise to residences. 900 Manhattan Ave has the same problem, with two doors from the Red Room opening to 9<sup>th</sup> St and the 900 Club rear door looking out to residences on both 9<sup>th</sup> St and Bayview Drive.

The draft CUP presented to the PC at the May 14 hearing required all patrons to use the Manhattan Ave entrance after 10 PM. Reso 14-06 overturned that condition, so that at all hours, patrons will use the Red Room door facing 9<sup>th</sup> St and the 900 Club backdoor.



## **STRAIGHTFORWARD SOLUTION TO 900 CLUB DISTURBANCES**

**3.1. Red Room Doors.** The planning commission modified the draft Reso 14-06 to let patrons use the Red Room door facing 9<sup>th</sup> St during all operation hours. The Red Room and 900 Club have approximately the same noise level, by virtue of being acoustically connected through the open stairwell in the northwest corner of the building. Consequently, for noise mitigation, the Red Room doors on 9<sup>th</sup> St must remain closed at night.

At the May 14 hearing, the Red Room owner argued that his patrons should have the right to use the 9<sup>th</sup> St door for ingress and egress, during all operation hours. The planning commission agreed.

**The council should reinstate the condition that Red Room patrons must use the Manhattan Ave entrance at night.** The Exhibit 1 redline CUP changes Condition 5, to require that all patrons to use the Manhattan Ave entrance after 9 PM, except for disabled persons.

**3.2. 900 Club Backdoor.** The draft Reso 14-06 required keyed locks to replace keypads on the doors at the 900 Club rear entrance and the adjoining storage room. This physical modification would effectively prevent patrons from accessing these two areas, by denying the 900 Club management from distributing keypad codes to members. The management has continuously done this, in violation of the 2004 agreement with the city attorney.

The PD rightfully had concerns, because keyed locks would require all officers to have a key to the 900 Club backdoor. This problem has a simple solution. The 900 Club should install at the backdoor a key lockbox, such as universally used by realtors. The PD will set the code, so that no one, including the owners, can access the key in its lockbox.

**The council should approve the change in Exhibit 1 redline CUP Condition 4, to install keyed locks and a PD key lockbox at the 900 Club rear entrance and adjoining storage door.**

Another serious violation by 900 Club patrons mandates replacement of the keypads by keyed locks, at the doors to the rear entrance and to the storage area. Videos show that patrons often enter the storage room, singly and in groups, for an improper use that typically takes only several minutes. Councilmembers can review an evidentiary video of such improper actions by club members, by clicking either on YouTube <http://youtu.be/yJ102vku8iM> or on DropBox [121020-900Club-StorageRoom-Action](http://www.dropbox.com/s/121020-900Club-StorageRoom-Action).

**To stop this improper use of the storage room by patrons, the council should approve the above modification of Exhibit 1 redline CUP Condition 4.**

### **4.0. Reso 14-6 Has Ineffective and Unproven Physical Noise Mitigation.**

Condition 13 in Reso 14-6 lists window treatments and sound curtains as the only physical mitigation measures, which have no quantitative substantiation in terms of noise-reduction analyses, sound measurement tests and design specifications in building plans.

In their May 14 report, Staff presented a single sentence to justify the Condition 15 mitigation measures, *"Staff feels that the proposed conditions are consistent with other establishments with similar operations, more enforceable and addresses all concerns."* [Staff Report, Pg. 1 bottom, 14 May 2014] Actually, this all-encompassing sentence serves as the sum-total of all evidence in the record, that Reso 14-06 conditions will protect the neighbors.

The city council must use common sense to identify physical noise mitigation concepts, as result of having no acoustics analyses and sound measurements for guidance. Fortunately, prohibiting amplified music makes the mitigation job far easier, compared to premises such

## STRAIGHTFORWARD SOLUTION TO 900 CLUB DISTURBANCES

Shade Hotel and the Strand House, which have amplified entertainment. These two recent CUP-actions do, however, provide the council with necessary basic guidance, as follows:

- Eliminate direct line of sight from open doors to residences (*not met by Reso 14-06*);
- Window treatments (*Reso 14-06 adequate, but only if no amplified music*); and,
- Sound absorbing materials on walls and ceilings (*Reso 14-06 lacks **ceiling** absorbers*)

Staff did not require any building plans for specifying physical mitigation required by Reso 14-06. As a substitute, the Exhibit 3 drawings show noise mitigation measures, based on floor plans from the 1995 Reso 5155 CUP.

For the most critical issue, line of sight between the 900 Club backdoor and residences on 9<sup>th</sup> St and Bayview Dr, the interior corridor lends itself to easily accommodate double-doors, as per Exhibit 3, Pg 2. The interior corridor must have acoustic isolation from the user area.

The Shade Hotel terrace will have ceiling sound absorbers, with Noise Reduction Coefficient 0.85. Exhibit 3 includes that mitigation for both the 900 Club and Red Room.

If the council retains amplified music, the absorption materials in the 900 Club will prove useless. Both the city acoustic expert, Behrens and Associates, and our acoustic expert, Medlin & Associates, have made clear for Shade Hotel, that in spaces holding a band, the management will boost up volume to overcome any sound absorption.

**The council should direct staff to bring back a resolution that includes physical noise mitigation substantially in agreement with concepts depicted in Exhibit 3.**

### **5.0. Staff Exempted 900 Manhattan Ave from Code Requirement for Entertainment Permit.**

The municipal code requires 900 Manhattan Ave to have a Class I entertainment permit, independent of provisions imposed by the current use permit, or lack thereof. Deviating from city practice, Reso 14-06 also does not include a condition for an annual Class I entertainment permit, which the code requires for establishments with occupancy of 100 or more persons.

The accompanying opinion from Strumwasser & Woocher articulates why by law, 900 Manhattan Ave must have a Class I entertainment permit.

At the February 26 hearing, Director Thompson and Planning Manager Jester misstated that entertainment permits apply only to special events, not to daily operations. Nothing could be further from the truth. Please review staff's testimony in the evidentiary video: either YouTube <http://youtu.be/4L5gkwGZPCU> or DropBox [PC-Questions-EntPermit-26Feb14](#).

Staff continues their neglect of the entertainment permit for the 900 Club, by not including it in Reso 14-06. **The city council should require the 900 Manhattan Ave CUP to include the standard condition for an annual entertainment permit, as stated in the Exhibit 1 redline CUP at Condition 16.**

### **CONCLUSION.**

As per the above evidentiary facts, without the modifications articulated in the Exhibit 1 redline CUP, the city council cannot make the required findings to approve Reso 14-06.

## RESOLUTION NO. PC 14-06

### A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION MAKING A DETERMINATION OF EXEMPTION PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND MODIFYING A USE PERMIT FOR AN EXISTING RESTAURANT/BAR (“EATING AND DRINKING ESTABLISHMENT” AT THE PROPERTY LOCATED AT 900 MANHATTAN AVENUE (900 Club and Red Room))

The Planning Commission of the City of Manhattan Beach hereby finds, resolves and determines as follows:

**Section 1.** On April 4, 1995, the Manhattan Beach 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, subject to a number of conditions.

**Section 2.** In 2003, the current owners took possession, and in reliance on the entitlements conferred by Resolution No. 5155, established the 900 Club and the Red Room, ~~were established~~ in the upstairs and downstairs spaces, respectively.

**Section 3.** At various times during ~~the period of~~ 2011-2014, the operators of the 900 Club have violated Manhattan Beach Municipal Code (MBMC) provisions and the Use Permit conditions. The City initiated code enforcement proceedings, described with more particularity in the City Prosecutor’s Log included in the February 26, 2014 staff report, which is hereby incorporated by this reference.

**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.** The modification 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 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 6.** On February 26, 2014, the Planning Commission held a duly noticed public hearing to consider the modification or revocation of the Use Permit. The City provided public notice of the public hearing on February 12, 2014, in accordance with State law. In addition, 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, the Commission provided an opportunity to all interested parties, including the owners, operators, and agents of the 900 Club and the Red Room, neighbors and residents, 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 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 video tapes.

**Section 7.** The record of the hearing indicates that on one or more occasions the ~~premises have~~ 900 Club has:

- 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 #133570 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.
- e.f. Operated with occupancies of 100 or more persons, without a Class I entertainment permit.

**Section 8.** Based upon the foregoing, and substantial evidence in the record, the Planning Commission finds

- 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 900 Club has violated the terms and conditions of Resolution No. 5155 by operating after closing hours.
- d. The 900 Club 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 or in the immediate area.
- e. The 900 Club has violated the terms and conditions of Resolution No. 5155 by holding special events without first obtaining a Class II Entertainment Permit.
- e.f. The premises have violated the municipal code by operating with occupancies exceeding 99 persons without having obtained a Class I entertainment permit.
- f.g. The 900 Club has violated the Municipal Code and the Use Permit conditions of approval.
- g.h. 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.i. The conditions of approval as set forth in Resolution No. 5155 need to be modified and augmented to enable the Planning Commission to determine that the 900 Club is operating in a manner consistent with findings made to approve the project, and to ensure that the 900 Club, the Red Room, and subsequent occupants 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.

**Section 9.** Based upon the foregoing, the Planning Commission directed staff to prepare a draft resolution with recommended modifications to the Use Permit approvals and conditions to address the issues and concerns raised in the record and at the hearing. The Planning Commission continued the matter to May 14, 2014 for consideration of a draft resolution with revised conditions of approval.

**Section 10.** 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.

**Section 11.** The Planning Commission hereby modifies the Use Permit subject to the following conditions:

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

Monday - Thursday 11:00am ~~midnight~~ 11:00pm

Friday 11:00am ~~r-1:00am~~ midnight

Saturday 9:00am ~~1:00am~~ midnight

Sunday 9:00am ~~midnight~~ 11:00pm

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.

2. 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.
3. Management shall provide a third party security staff person, who is licensed, bonded and certified by the State of California within 30 days after this approval, who shall be present from 9:30 pm on Thursday, Friday and Saturday and any day there is a Special Event ~~or Amplified Sound~~ until 30 minutes after closing time. 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~~ ~~backdoor~~, litter, access, windows and doors being closed, and any other nuisances.
4. The ~~back door~~ ~~backdoor~~ and storage/utility room on Bayview Drive shall remain closed and not be used after 10:00 pm, except the ~~back door~~ ~~backdoor~~ may be used for trash removal or disabled or emergency access only. Additionally, bands shall be allowed to use the ~~back door~~ ~~backdoor~~ for the loading and unloading of amplified sound equipment and shall vacate the site by closing time. The ~~back door~~ ~~backdoor~~ and storage room keypad accesses shall be ~~maintained~~ removed and replaced by keyed-locks. The 900 Club shall install a key lockbox by the rear door for the Police Department, which will set the code, so that no one else can access the key lockbox, including the 900 Club. ~~and only be accessible from the outside by the owners/operators and employees, however, all outside areas shall be disabled after 10pm.~~ No patron shall be provided a key ~~or access code~~ for the ~~back door~~ ~~backdoor~~ or the storage/utility room. Management shall not change door keys without written permission from ~~contact~~ the Police Department. ~~the first of every month to advise of key access code changes and any other changes.~~ The 900 Club may install an intercom at the rear door, to enable entry by disabled persons
5. ~~All patrons must~~ shall use Manhattan Avenue for access to the 900 Club after ~~10pm~~ 9 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 ~~10pm~~ 9 PM and the door shall remain closed when not in use. ~~Patrons shall use the 9<sup>th</sup> Street entrance for access to the Red Room and the door shall remain closed when not in use.~~

6. Background music through the house system at conversational levels, is allowed on both the first and second floors during all hours of operation. ~~Amplified sound, excluding background music but including, [but not limited to, microphones and/or amplified instruments] is permitted exclusively on the second floor of the 900 Club. Amplified sound shall be allowed only on Thursday, Friday, or Saturday, up to a maximum of 18 days per year. The business operator shall notify the Director of Community Development, the Police Department and neighbor representatives a minimum of 7 days prior to the use of amplified sound.~~
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 operating hours. 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 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 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 nuisances. If amplified sound is used at a Special Event, the day of the event shall be included in the maximum allowable 18 days per year for amplified sound, as specified in Condition No. 6. If amplified sound is not used at a special event, it is not included as part of the 18 maximum amplified sound days per year, as specified in Condition No. 6. A total of 18 days with amplified sound are allowed annually. The business operator shall notify the Director of Community Development, the Police Department and neighbor representatives a minimum of 7 days prior to the special event.~~
- ~~10.~~8. Noise emanating from the site shall comply with all Municipal and Penal Codes. Outdoor sound equipment and outdoor amplification systems are prohibited. All doorways and windows shall remain closed at all times during entertainment (including amplified or non-amplified sound) and special events or dancing.
- ~~11.~~9. Three parking spaces shall be maintained on-site at the rear of the building.
- ~~12.~~10. Required access and exits shall remain unobstructed at all times in compliance with Fire and Building requirements.
- ~~13.~~11. The occupancy limits stated below shall not be exceeded and are required to be posted on-site at all times:
  - a. Red Room (downstairs) – 31
  - b. 900 Club (upstairs) - 92
- ~~14.~~12. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.
- ~~15.~~13. The following noise mitigation measures shall be installed within 6 months ~~45 days~~ and maintained at all times:
  - a. Tempered glass panels installed over each upstairs stained glass window along the south wall.
  - b. A separate tempered glass panel installed over the inside windows upstairs along the south rear hallway.

- c. Double pane windows on Manhattan Avenue and 9<sup>m</sup> Street upstairs and downstairs.
- d. Signage on the Bayview Drive rear door (inside and outside) to not enter or exit after 10:00 pm.
- e. Sound curtains with a Noise Reduction Coefficient [NRC] of 0.85 shall be installed on the double pane windows adjacent to Manhattan Avenue and 9<sup>m</sup> Street on the second floor.
- f. Pursuant to approved plans [see attached exhibit], the following physical mitigation shall be implemented:
  - 1) Noise absorbers with NRC 0.85 shall be placed to the maximum extent on ceilings over public areas in the 900 Club and Red Room;
  - 2) The corridor to the 900 Club backdoor shall be acoustically isolated from public areas and be outfitted with double doors; and,
  - 3) The 900 Club back and storage doors shall be replaced with glass to provide visibility within, and the fence concealing the back-door area shall be removed.

~~16.14.~~ The Management 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. Management shall ensure all City and other governmental laws, rules, ordinances, regulations, codes, requirements, operating permits, and conditions are met, maintained and upheld. 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.

15. 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 front-door key-pad code for access any time. Management shall obtain written permission from the Police Department to change the keypad code. ~~contact the Police Department the first of every month to advise of any key access code changes.~~

~~17.16.~~ The 900 Club shall obtain an annual Class I entertainment permit, effective March 1 every year.

#### Procedural

~~18.17.~~ The project shall be in substantial conformance with the plans submitted and the project description, as approved by the City Council, subject to any special conditions set forth in this amendment. 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 establishments 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. Any substantial deviation from the approved plans or project description shall have review and approval by the Planning Commission.

~~19.18.~~ 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 12.** 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 13.** APPEAL. In accordance with Chapter 10.100 of the Municipal Code, decisions of the Planning Commission may be appealed to the City Council within 15 days of the Planning Commission action by filing a written appeal with the City Clerk.

**Section 14.** RECORDATION. The 900 Club 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 900 Club shall deliver the executed covenant to the Department of Community Development within 30 days of the Planning Commission decision or final decision, if appealed to the City Council. At the time that the 900 Club delivers the covenant to the City, the 900 Club shall also provide the City with all fees necessary to record the document with the County Recorder.

**Section 15.** VIOLATION OF CONDITIONS: It within ~~45 days~~ **six (6) months** 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.

I hereby certify that the foregoing is a fair, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of May 14, 2014 and that said Resolution was adopted by the following vote:

**AYES: Conaway, Ortmann, Paralusz, Chairperson Gross**

**NOES: None**


**ABSTAIN: Andreani**

**ABSENT: None**

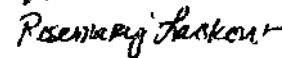


**RICHARD THOMPSON**

Secretary to the Planning Commission



Rosemary Laskow  
Recording Secretary



Rosemary Laskow

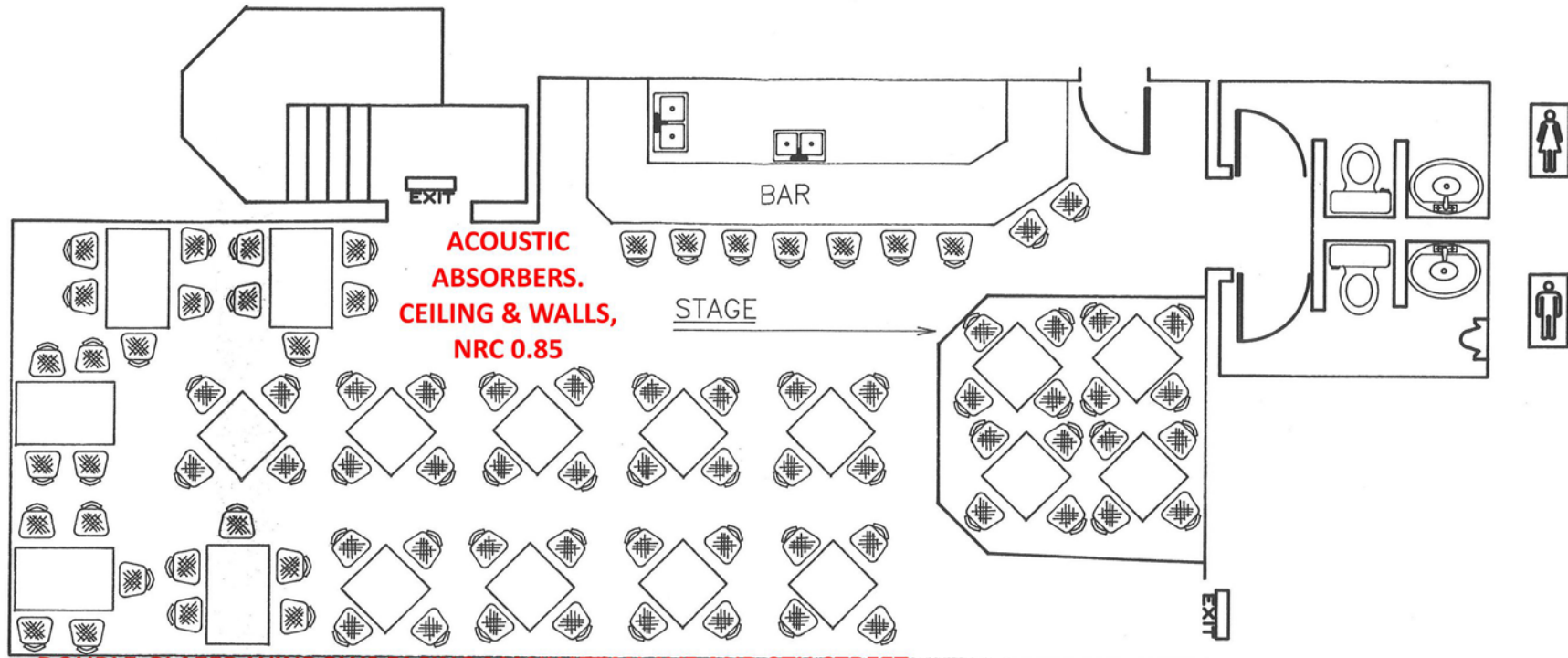


## CHECKOFF INDEX FOR MODIFICATIONS IN EXHIBIT 1 REDLINE RESO 14-06

Section	Description	Comments	Yes-No-?
2	900 Club established	Add date	
3	900 Club violated CUP and Muni Code	Edit	
7	“900 Club has:” to “premises have...”	Extend to include entire premises	
7 (f)	New finding 7 (f) re entertainment permit	Premises violated entertainment permit ordinance MBMC 4.20; no Class I permit	
8 (f)	New finding 8 (f), Ditto above	Ditto above	
11.1	Closing times	Reduce consistent with established practice for Downtown, beach area and elsewhere near residences	
11.3	Security person	Delete “amplified sound”	
11.4	Patron use of premises doors	Restore to original draft CUP: 1) Replace backdoor & storage area keypads with keyed locks; and 2) Install 900 Club key lockbox for PD use only	
11.5	Patron use of 900 Club back door and Red Room 9 <sup>th</sup> St door	Require all patrons, except disabled, to use Manhattan Ave entrance after 9 PM	
11.6	Music restrictions	Delete amplified entertainment	
11.8	Dancing	Delete dancing	
11.9	Special events, requiring notice to PD	Delete special events restriction, an unnecessary complication. Premises can routinely have amplified music with 123 patrons. Why add to PD and staff workload for events of 50 patrons?	
<del>11.15/</del> 11.13	Implementation deadline, 45 days	Increase to 6 months, for implementing effective physical noise mitigation	
<del>11.15(e)/</del> 11.13(e)	Sound curtains	Specify Noise Reduction Coefficient, NRC-0.85, same as Shade Hotel	
11.13(f)	New noise mitigation condition	New noise mitigation measures	
<del>11.17/</del> 11.15	Inspection access and keypad code(s), front and back entrances	Front door keypad code. PD sets backdoor code, per Condition 11.4	
11.16	New entertainment permit condition	Requires Class I entertainment permit	
<del>11.18/</del> 11.17	Use permit review for revocation-modification	Adds standard language for: 1) Conformance with plans and description; and, 2) PC approval of CUP changes	
15	Violations of Conditions	Modification for 6-month schedule in Condition 11.13, formerly 11.15	



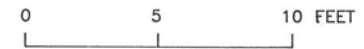
# PHYSICAL NOISE MITIGATION; 900 CLUB 2<sup>nd</sup> FLOOR



**DOUBLE-GLAZED WINDOWS FACING MANHATTAN AVE AND 9TH STREET;  
STAINED-GLASS COVERED WITH TEMPERED GLASS;  
ALL CLOSED AND COVERED WITH NRC 0.85 ACOUSTIC CURRENTS AFTER 9 PM**

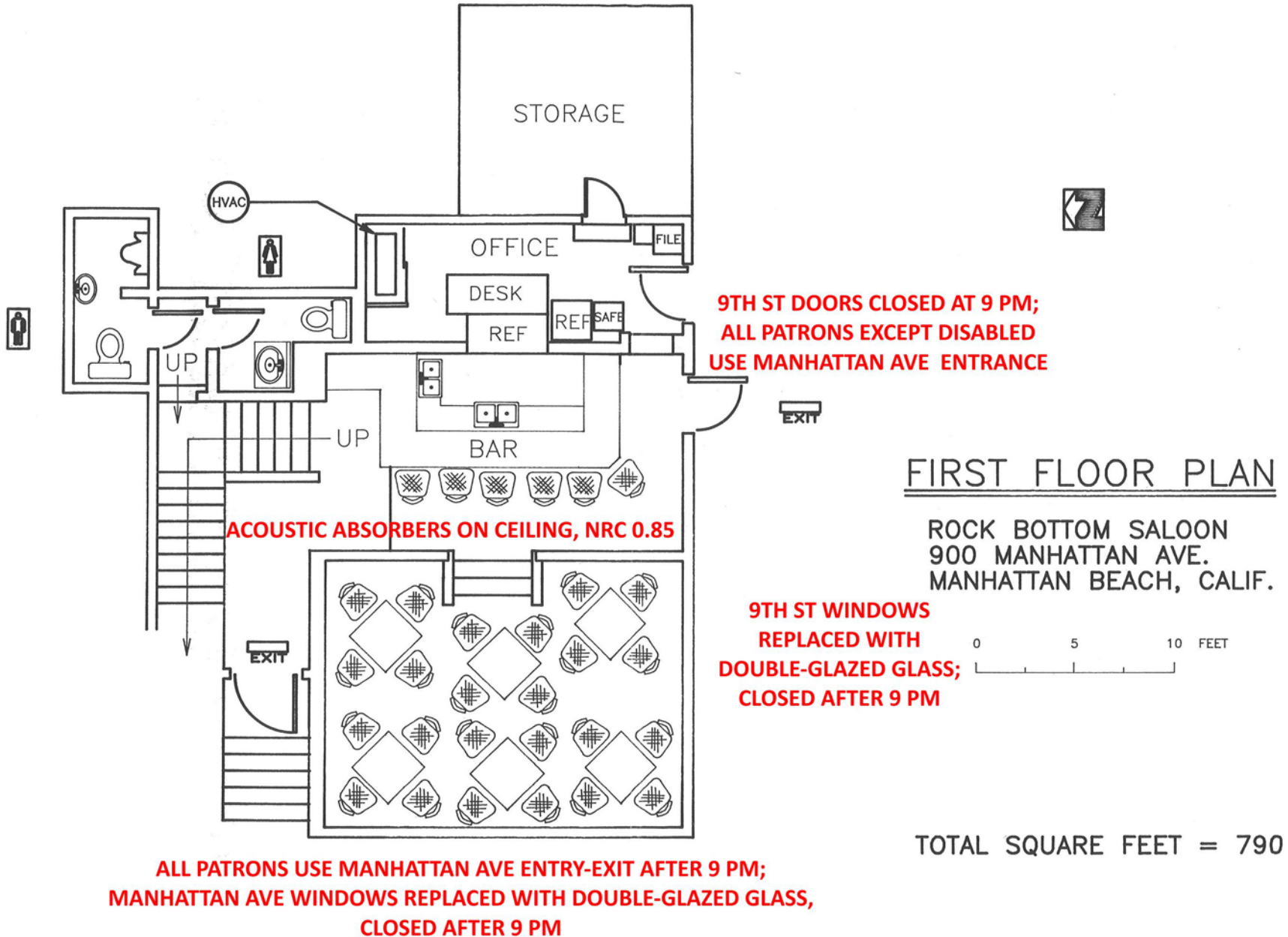
## SECOND FLOOR PLAN

ROCK BOTTOM SALOON  
900 MANHATTAN AVE.  
MANHATTAN BEACH, CALIF.



TOTAL SQUARE FEET = 1197

# PHYSICAL NOISE MITIGATION; 900 CLUB ON; RED ROOM 1<sup>st</sup> FLOOR



**20 OF 24 BEACH CUPS GRANTED SINCE 2000  
CLOSE 11 PM OR BEFORE ON WEEKDAYS**

Code 1: Close **on or before 11 PM Sun-Thu and midnight Fri-Sat**; Only Shade Hotel has music and dancing

Code 2: Close **after 11 PM Sun-Thu and midnight Fri-Sat**; Sharks, Strand, MB Brewing grandfathered

Index	Name	Address	Alcohol Close Time	CUP Date	Code
1	Rockerfeller	1209 Highland Ave	11pm S-T; 12am F-S	9-Apr-07	1
2	Marine St Cafe1	2201 Highland Ave	10:30pm Daily	14-May-03	1
3	The Local Yolk	1414 Highland Ave	12am Ddaily	14-Aug-02	1
4	North End Café	3421 Highland Ave	10pm S-T; 11pm F-S	25-Aug-10	1
5	Strand House	117 MB Blvd	12am S-T; 1am F-S	23-Feb-11	2
6	Sharks Cove	309 MB Blvd	2am Daily	10-Dec-03	2
7	Fusion Sushi	1150 Morningside Dr	11pm S-W; 12am T-S	23-Mar-05	1
8	Pitfire Pizza	401 MB Blvd	11pm daily	23-Mar-05	1
9	Katsu	302 Rosecrans Ave	11pm S-T; 12am F-S	27-Mar-02	1
10	Izka-Ya	1133 Highland Ave	11pm S-W; 12am T-S	14-Jul-10	1
11	MB Brewing	124 MB Blvd	12am S-T; 1am F-S	14-Jan-09	2
12	Old Venice	1001 Manhattan Ave	11pm S-T; 12am F-S	25-Jun-07	1
13	El Sombrero	1005 Manhattan Ave	11pm S-T; 12am F-S	25-Jun-07	1
14	Fonz's	1017 Manhattan Ave	9pm S; 10 pm M-T; 11pm F-S	14-Feb-01	1
15	Darren's	1141 Manhattan Ave	11pm S-T; 12am F-S	28-Aug-02	1
16	Fishing with Dynamite	1148 Manhattan Ave	11pm S-T; 12am F-S	28-Nov-01	1
17	F Grill	1140 Manhattan Ave	10pm S-T; 11pm F-S	8-May-02	1
18	Simmzy's	220 MB Blvd	11pm S-T; 12am F-S	22-Jan-03	1
19	Le Pan Quotidien	451 MB Blvd	7:30pm Daily	14-May-08	1
20	Shade Hotel	1221 N Valley Dr	11pm Daily	5-May-05	1
21	Petros	451 MB Blvd	11:30pm S-T; 12:30am F-S	13-Dec-06	2
22	Vacant	451 MB Blvd	10:30pm S-T; 11:30pm F-S	16-Jul-02	1
23	Sushi Ya Matsu	210 Aviation Blvd	11pm Daily	24-Jul-02	1
24	Vacant	1605 Sepulveda Blvd	10pm S-T; 12am F-S	5-Jul-11	1

STRUMWASSER & WOOCHELLLP

ATTORNEYS AT LAW

10940 WILSHIRE BOULEVARD, SUITE 2000  
LOS ANGELES, CALIFORNIA 90024

TELEPHONE: (310) 576-1233

FACSIMILE: (310) 319-0156

[WWW.STRUMWOOCHELL.COM](http://WWW.STRUMWOOCHELL.COM)

FREDRIC D. WOOCHELL  
MICHAEL J. STRUMWASSER  
GREGORY G. LUKE †‡  
BRYCE A. GEE  
BEVERLY GROSSMAN PALMER  
RACHEL A. DEUTSCH  
PATRICIA T. PEI

† Also admitted to practice in New York

‡ Also admitted to practice in Massachusetts

August 8, 2014

Manhattan Beach City Council  
1400 Highland Avenue  
Manhattan Beach, CA 90266

Re: 900 Manhattan Avenue, August 19, 2014 meeting

To the Honorable Mayor Howorth and the Members of the Manhattan Beach City Council:

I write on behalf of Don McPherson regarding the revocation or modification proceedings concerning the 900 Club, located at 900 Manhattan Avenue. As the record before the City Council makes clear, the 900 Club has caused safety problems and noise disturbances in the adjacent residential neighborhood since its inception in the 1990s. The City has tried in the past to remedy the situation through a voluntary agreement with the operator, but the problems persist. Meanwhile, both the police department and the City Prosecutor have been forced to expend an unusual effort to resolve the continuing noise and safety violations at the 900 Club.

The testimony of neighbors, Police Chief Eve Irvine, and City Prosecutor Joan Jenkins before the Planning Commission leads to the conclusion in Resolution PC 14-06 that the 900 Club is a nuisance that has disturbed the peace and quiet in the neighborhood, in a manner that is detrimental to the public health, safety, and welfare. In spite of this conclusion, however, the corrective measures imposed in Resolution PC 14-06 are modest. There is no support for the conclusion that these measures will remedy the safety and disturbance problems caused by the 900 Club.

In a separate submittal, our client has provided the Council with a redlined version of Resolution PC14-06 that will remedy the deficiencies in the current version, while considerably simplifying it. The Council should direct staff to bring back a resolution that makes these corrections.

**I. The Record Before the Council Does Not Contain Substantial Evidence that Resolution PC 14-06 Will Remedy the Nuisance Conditions Caused by the 900 Club or that the Club's Continued Operations Are Appropriate for Its Location Adjacent to a Residential Neighborhood**

**a. Required Findings for Conditional Use Permit under the Manhattan Beach Municipal Code**

The Manhattan Beach Municipal Code contains specific required findings that must be made when a use permit is issued. Pursuant to M.B.M.C., § 10.84.060, these are, in full:

1. “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;
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;
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
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.” (Manhattan Beach Muni. Code, § 10.84.060, A.)

The Code makes clear that for a permit to be issued, the above four findings must be made. (See M.B.M.C., § 10.84.060, D [failure to make the required findings results in mandatory denial of requested entitlement].) The evidence in the record does not support the required findings that the “proposed location of the use and the proposed conditions under which it would be operated or maintained ... **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;” or that “**the proposed use will not adversely impact ... nearby properties,**” including due to the specifically enumerated impacts from noise, vibration, parking, resident security and personal safety. **These findings must be made** – and supported with substantial evidence in the record before the City – in order for the revised use permit to be issued.

The City began these proceedings to consider revocation or modification of the 900 Club’s use permit under Manhattan Beach Municipal Code section 10.104.030. The Planning Commission concluded that the operations at the 900 Club satisfied the demands of the revocation/modification ordinance, in that the operations at the 900 Club violated the terms and conditions of its current use permit (Resolution No. 5155). (See M.B.M.C., § 10.104.030, D.; and Resolution PC 14-06, § 8 a-f.)

A finding that revocation or modification is justified due to violations of the existing permit does not end the City’s duty under the municipal code to ensure that the new conditions imposed on the 900 Club will satisfy the requirements of code section 10.84.060, which are designed to ensure that any uses permitted by the City will not adversely affect residents and other properties. Indeed, the Planning Commission made the additional finding that “Resolution No. 5155’s **existing conditions of approval are inadequate to halt the interference with the**

**neighbor's quiet enjoyment**, and additional conditions are required to ensure that the 900 Club operates in a manner that does not adversely impact neighboring properties." (See Resolution PC 14-06, § 8, g.) Similarly, Resolution PC 14-06 found that "[t]he conditions of approval as set forth in **Resolution No. 5155 need to be modified and augmented to enable the Planning Commission to determine that the 900 Club is operating in a manner consistent with findings made to approve the project**, and to ensure that the 900 Club, the Red Room, and subsequent occupants 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." (*Id.*, h.) Resolution PC 14-06 thus recognizes that the City cannot permit the operation of a business under use permit without imposing such conditions to ensure that the operations of the business do not constitute a nuisance.

Although Resolution PC 14-06 makes clear that the existing conditions of approval do not adequately protect the health and safety of nearby residents from the impacts of the 900 Club's operations, it does not follow from those findings that the revised conditions of approval will provide adequate protection for neighboring residents. Indeed, the modest changes imposed in Resolution PC 14-06 are unlikely to end the nuisance created by the 900 Club. The resolution as currently proposed cannot be approved as substantial evidence does not support a finding that the 900 Club's future operations will not continue to cause safety and noise problems for the neighborhood.

**b. The Record Contains Uncontradicted Evidence that 900 Club is a Nuisance and that Its Present Operations Are Inappropriate Adjacent to a Residential Neighborhood**

The record before the City amply supports the conclusion that the present-day operations of the 900 Club are a nuisance on the neighborhood, disturbing the peace and preventing families from the quiet enjoyment of their homes. As documented in the attached Exhibit A, dozens of residents submitted letters to the City documenting the negative impacts the 900 Club's operations have had in the surrounding community. The letters document use and noise well after the 1 AM designated closing hour (as late as 3 or 4 AM), continued use of the back door by patrons, noise well in excess of Municipal Code limits from live bands, cigarette smoke blowing through open windows, bottles or broken glass left in the streets near the premises, and intimidation by management of neighbors who report disturbances. The fact that so many neighbors have been significantly disturbed by the 900 Club's operations is irrefutable evidence that the business as it is presently operated constitutes a nuisance and an inappropriate use adjacent to a residential setting.

Moreover, Police Chief Eve Irvine and City Prosecutor Joan Jenkins testified regarding the disturbances and nuisances caused by the 900 Club's operations.<sup>1</sup> In response to questions from Planning Commissioners, Police Chief Eve Jenkins testified that activities at the 900 Club have been responsible for **an unusually large number of calls to the police** in the last two years,

---

<sup>1</sup> A video excerpt from the February 26, 2014 Planning Commission hearing containing the responses of Police Chief Eve Irvine and City Prosecutor Joan Jenkins to the questions of several Planning Commissioners is available at <http://youtu.be/wpvQ-2potMI>



largely concerning activity after 10 PM. Chief Irvine explained that the police have responded to 19 calls in the last two years from the 900 Club alone, a number that is “not par for the course,” and “out of the ordinary,” according to Chief Irvine. Chief Irvine also added that other operators have been much more willing to cooperate with the police, and that compared to other businesses, the 900 Club had been **less cooperative and less willing to change the practices** that the police had identified as a problem.

City Prosecutor Joan Jenkins explained that there are four cases pending in court against the 900 Club. The District Attorney has filed a suit for breach of the peace for conduct that took place on September 15 and October 25, 2012. The City Prosecutor has filed three actions: one for noise violation in February 2014, one for noise and use permit violations in November 2013, and one for code violation in January 2013. The February 2014 case resulted a month *after* the 900 Club received a courtesy notice of the impending revocation-modification hearing. Like Chief Irvine, Ms. Jenkins testified that the 900 Club was **less cooperative than other businesses** with whom she had attempted to address code violations. Ms. Jenkins also testified that the types of code violations being prosecuted in her actions are misdemeanors, and **“important to bring peace to the neighborhood, to end municipal code violations which are really quality of life violations.”**

In the record, little exists to dispute that the 900 Club’s present operations are “detrimental to the public health, safety or welfare of persons residing ... adjacent to the neighborhood of such use,” and “adversely impact[s] nearby properties” from at least “noise, vibration. . . resident security and personal safety.” Significant operational and physical changes are required to address these impacts.

**c. Changes on Operations Imposed by Resolution PC 14-06 Are Not Sufficient to Address the Problems and Do Not Even Impose the Same Restrictions Imposed on Similar Businesses in the Downtown District**

In spite of the considerable evidence that the 900 Club’s operations constitute a nuisance and have detrimental impacts on the health and safety of neighbors, the changes proposed to the 900 Club’s conditions of approval are modest at best. The hours of operation remain exactly the same in Resolution PC 14-06 as they were in Resolution 5155, permitting 1 AM closing on Friday and Saturday, and midnight closing on all other days of the week. Resolution PC 14-06 imposes an 18-day limit for amplified music (see § 6) but no limit on non-amplified music (§ 7). There is no evidence in the record that the 18-day limit on amplified entertainment will significantly reduce the number of days that the 900 Club has rock bands, as there is no evidence how frequently the 900 Club has amplified and non-amplified music under its current entitlement. Both the current permit and Resolution PC 14-06 permit six special events, and both permit dancing on Friday and Saturday. Resolution PC 14-06 imposes modest noise mitigation measures that are not included in the current permit (see Res. PC 14-06, § 15), and imposes a new requirement that the business employ a security staff person until 30 minutes after closing time on weekend to ensure that the business complies with conditions of approval (*id.*, § 3), which is a bit like the fox guarding the hen house when it comes to the actions of the 900 Club’s own employees.

Other limitations in the new permit echo conditions that the 900 Club already agreed to in a voluntary agreement nearly 10 years ago, which have proved unsuccessful at preventing noise and nuisance from the neighborhood. In 2004, then-City Attorney Robert Wadden negotiated a voluntary agreement with the 900 Club, in which the club agreed to prevent use of the back door by patrons (or members). (See Exhibit B [December 2, 2004, letter of Robert Wadden].) The agreement required the club to post signage limiting use of the back door to employees, to make the door inoperable from the outside, reprogram the key pad to remove member access to the back door, and post a sign on the outside of the rear door limiting its use to employees. (*Ibid.*) These requirements are largely mirrored in Resolution PC 14-06. (See Res. PC 14-06, §§ 4 & 5.) Yet the 900 Club has blatantly violated these procedures for nearly 10 years. There is no evidence in the record to support the conclusion that the behavior of the 900 Club or its patrons will change in response to the codification of practices that the club already agreed to in a City-brokered process, particularly in light of the already-document use permit violations presently taking place at the club.

It is striking to compare the entitlements being extended to the 900 Club to those extended to similarly situated downtown businesses located adjacent to residential neighborhoods. The Staff Report for the Planning Commission's February 26, 2014 hearing contained a summary chart of the entitlements for all bars and restaurants with on-sale alcohol service. (Attached hereto as Exhibit C; see also Exhibit D, summary of only beach or downtown businesses.) Twenty-four use permits have been issued to businesses located in the downtown or beach area since the year 2000. (See Exhibit C, rows 4, 5, 7, 9, 17, 19, 22, 23, 26, 64, 67, 72-74, 78-85, 87, 88.) Of these, only four have permitted closing hours as late as 1 AM on weekends and midnight on weeknights (rows 17, 19, 67, & 84)., All of these businesses except Petros were previously entitled. All other new business operations in the downtown and beach areas, adjacent to residences, have midnight closing hours on weekends and 11 PM closing on weekdays, or earlier (rows 4, 5, 7, 9, 22, 23, 26, 64, 72, 73, 74, 78 -83; 85, 87, 88.) Only one business issued a permit since the year 2000 is permitted to have live amplified entertainment and dancing. (See row 17.) In comparison, Resolution PC 14-06 grants hours until 1 AM on weekends and midnight during the week; authorizes live, amplified music on 18 days without need for an entertainment permit; permits dancing on Friday and Saturday; and allows both "background music" and unamplified sound on any day the business is in operation. Because other similarly situated businesses have more significant limitations on their hours and entertainment, the failure to impose similar restrictions on the 900 Club strongly suggests that the conditions in Resolution PC 14-06 will not adequately protect the surrounding community from nuisance conditions stemming from the entertainment use at the 900 Club.

**d. Resolution PC 14-06 Is an Abuse of Discretion Because Substantial Evidence Does Not Support the Required Findings**

Resolution PC 14-06 correctly recognizes that "the conditions of approval set forth in Resolution No. 5155 need to be modified and augmented to enable the Planning Commission to determine that the 900 Club, the Red Room, and subsequent occupants 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 PC 14-06, § 8, h). The evidence in the

record, however, does not support a finding that the modifications made to the use permit will achieve the necessary result. The resolution is therefore an abuse of discretion.

The courts have been clear that local governments must support their decisions with evidence supporting the ultimate decision. “[T]he agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) The reason for this requirement is to “facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions.” (*Id.*, at p. 516.)

The *Topanga* court specifically highlighted the importance of such evidentiary support when a court reviews a grant of a variance, “in order to protect the interests of those who hold rights in property nearby the parcel for which a variance is sought. A zoning scheme, after all, is similar in some respects to a contract; each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare.” (*Id.*, at p. 517.) These concerns are equally significant here: the neighboring residents have chosen their homes with the understanding, implicit in the Municipal Code and the common law of nuisance, that adjoining properties owners will not be permitted to use their properties in a way that creates a nuisance – by virtue of noise, vibration, safety hazard or otherwise – for a neighboring property owner.

Here, substantial evidence certainly supports the City’s decision to modify the use permit. However, substantial evidence does not support the finding that Resolution PC 14-06 will remedy the nuisance and safety hazards posed by the 900 Club. For example, the staff report for the May 14, 2014 Planning Commission hearing briefly discusses whether the new conditions included in Resolution PC 14-06 would address the many quality of life and safety impacts identified by nearby residents. With respect to noise mitigation, which addresses a major concern of nearby residents, the staff report states, “The City Noise consultant reviewed the changes and noise mitigation measure implemented by the business owner as mentioned in the revised Resolution, Condition No. 15. The Noise Consultant felt that these measure should address the neighbors[sic] complaints.” (May 14, 2014, Staff Report at p. 3.) The record contains no evidence supporting the assertion that the noise mitigations were reviewed by the noise consultant. There is **no evidence as to the basis for the consultant’s conclusions**. The affected neighbors and the public generally were not provided an opportunity to review and evaluate these conclusions.

The continued use of the back door by patrons since the 2004 directive prohibiting such use. and the continued late-night operating hours and live music permitted by Resolution PC 14-06 belies the city claim of having addressed the significant concerns brought by the neighbors. Substantial evidence does not support the conclusory statement in Resolution PC 14-06 that “the changes and noise mitigation measure implemented by the business owner ... should address the neighbors [sic] complaints.”

The staff report also relies upon the fact that “the proposed conditions are consistent with other establishments with similar operations,” (May 14, 2014 Staff Report at p. 1), a fact that is

demonstrably untrue in comparison to other similar entertainment premises which have had permits renewed or newly issued since the year 2000, as discussed above. Substantial evidence does not support this finding, which is critical in determining whether this business can operate compatibly with its residential neighbors. Similarly, there is no support in the staff report for the idea that permitting unamplified live music will not be an impact on the neighbors. Nor is their substantial evidence that permitting 18 days of amplified music is reasonable (the staff report itself only reviews the concept of 12 days of amplified music). The Planning Commission's debate focused on operational changes without addressing whether those changes would be sufficient to ensure that the operations of the 900 Club do not adversely impact neighboring properties or continue to detrimentally affect the public health, safety or welfare of neighboring residents. Given the evidence in the record of the harm caused by the 900 Club, more is required than bare conclusions to demonstrate that the continued operations of the premises will not further the nuisance conditions already caused by the club. The failure to support these findings with evidence is an abuse of the Council's discretion.

## **II. A Class I Entertainment Permit Is Required for The Premises**

During the nearly two-decades since approval of the current use permit, Resolution 5155, the City has failed to require the 900 Club to obtain a Class I entertainment permit, pursuant to MBMC Chapter 4.20. Nor does the City now take the opportunity to remedy its error in Resolution PC 14-06. The failure to require an entertainment permit for this premises in the recent past is not basis to ignore the requirement now, when the 900 Club has proven itself to be a nuisance and public safety hazard. Indeed, the City's the entertainment permit system is designed to prevent group entertainment from becoming a public health and safety hazard, as set forth in the findings for the entertainment permit ordinance:

“The City Council does find that there exists and has existed an increasing trend toward large group activities within the City of Manhattan Beach. Such group activities often result in parking and traffic hazards, excessive noise, accumulation of trash and debris, public intoxication, urination and excretion, vandalism, trespass, narcotic violations, and other conditions or behavior detrimental to the peace, health, safety, morals or welfare of the City or its inhabitants. The City Council further finds that it is in the best interest of the City and its inhabitants to regulate such gatherings or assemblages at places other than private residences in order to preserve and protect the public peace, health, safety, morals and welfare.” (M.B.M.C., § 4.20.010.)

Pursuant to the City's goal of preserving and protecting the public peace, health, safety, morals, and welfare, the City requires an entertainment permit for all premises in which “group entertainment” is provided. The ordinance broadly defines “group entertainment” to include:

“activity or activities at any place (excluding private residences) wherein one hundred (100) or more people are present at the same time and where either: (1) entertainment is provided or in any manner furnished, allowed or permitted to be carried on; or (2) food is prepared on the premises and consumed on the premises by customers who pay for the food; or (3) alcoholic beverages are sold, offered for sale or given away. ‘Entertainment’ shall mean any activity having the

primary purpose and effect of providing amusement or diversion in any manner, including but not limited to live bands, one or more performers of musicals or other acts, or amplified radio or pre-recorded music.“ (M.B.M.C., § 4.20.020, A.)

The ordinance is clear that an entertainment permit is mandatory. “No person shall conduct or operate any place having group entertainment upon the premises unless such person in charge of operations or having control of such place where group entertainment is permitted or allowed has received a permit from the City Manager or his delegate authorizing such group entertainment.” (M.B.M.C., § 4.20.030.) There are two classes of entertainment permits. A Class I permit is for group entertainment that incidental to business operations; a Class II permit is for one-time use only. (M.B.M.C., § 4.20.040.)

Resolution PC 14-06 permits a maximum occupancy of 123 (§ 13.) ). Therefore, a Class I permit is required for the premises at 900 Manhattan Avenue, but Resolution 5155 wrongly required only a Class II permit, for six special events per year. Resolution PC 14-06 fails to remedy this error, a failure that appears to stem from the testimony of Community Development Director Thompson and Planning Manager Laurie Jester that entertainment permits are required only for special events and not for daily operations. Planning Commission Chairman Conaway observed during the February 26, 2014 hearing, that “the entertainment permit was the hammer, if you will, to control behavior.”<sup>2</sup> He then asked, “Why hasn’t that hammer been used, just ... the major source is live entertainment ... contain that use?” Mr. Thompson replied that 900 Manhattan Ave had never applied for an entertainment permit, and when asked whether the failure to apply for such a permit was a violation of the use permit, he responded that this would be a violation *only* “if they are conducting special events.” Commissioner Paralusz requested the definition of a special event, and Ms. Jester responded that a special event is “when you have a band or entertainment, or a DJ, and it’s not you day-to-day operation, but it’s a large gathering with entertainment.” This testimony ignored the plain language of Municipal Code section 4.20.040 that an entertainment permit is required for premises accommodate 100 persons or more where food and/or alcoholic beverages are served and sold, regardless whether the premises has a band or a DJ.

The premises at 900 Manhattan Avenue has a total occupancy of more than 100, with 31 permitted occupants in the Red Room and 92 in the 900 Club. (See also Exhibit E [historic occupancy of the premises 33 on ground floor and 106 on second floor].) The two businesses, which operate at the same premises, are separately operated but physically and financially interconnected. The entire premises previously operated as a single business, and the interior space dividing the two businesses currently located there has not significantly changed. Indeed, in the past an entertainment permit was required for the premises at 900 Manhattan Avenue. In April 1979, the City granted an entertainment permit to the Silo Restaurant, which then operated at 900 Manhattan Avenue. (See Exhibit F [1979 entertainment permit]; see also Exhibit G [staff summary of use permit history for 900 Manhattan Avenue, noting that café service required an entertainment permit, and that dancing would require an additional entertainment permit].) In

---

<sup>2</sup> A four-minute video clip of the testimony discussed in this paragraph may be viewed at <http://youtu.be/4L5gkwGZPCU>.

Honorable Mayor Howorth and the Members of the Manhattan Beach City Council

August 8, 2014

Page 9

Resolution PC 93-28, which was ultimately denied by Resolution 5038, the City required a Class I entertainment permit prior to the provision of live music. (See Exhibit H, p. 4 of 6.) It was not until Resolution 5155, the present day use permit, that the requirement for an entertainment permit was erroneously limited to special events.

Staff misinformed the Planning Commission that the entertainment permit was not needed for daily operations, but the text of the Municipal Code is clear that an entertainment permit is required for premises which have an occupancy of 100 or greater and in which any of food, OR alcohol, OR music is provided to patrons. An entertainment permit would provide an additional means to regulate the operations that have led to disturbances of nearby residents, and should be required in the modified use permit for 900 Manhattan Avenue.

### **CONCLUSION**

The City took a step in the right direction to address the nuisance created by the 900 Club by initiating these revocation and modification proceedings. In Resolution PC 14-06, however It has utterly failed to impose conditions that are demonstrably likely to address the nuisance conditions, as has been done with other premises in similar physical situations in the downtown and beach areas. The City Council should also seize the opportunity to regulate the 900 Club's activities by use of an annual entertainment permit.

Very truly yours,



Beverly Grossman Palmer

# **EXHIBIT A**

**NOISE AND SAFETY COMPLAINTS**  
**STAFF REPORT FOR 900 CLUB PUBLIC HEARING, 14 MAY 2014**  
**PDF PAGES 71-86**

**For 2014 Planning Commission Hearing**  
**Neighbor Complaints**



To the city of Manhattan Beach,  
My family and I used to live at [REDACTED] I am writing to explain one of the main reasons we moved. We are really tired of the city not doing anything about the party that goes on inside and outside the upstairs private club, 900 Club. The club continues to be noisy, not only on weekends, but on random times throughout the week. There are two doors to get into the club and it is our understanding that people are not suppose to go out the back door on 9th St. They continually use the back door, it isn't just an employee coming out it is the patrons. There is a keypad at the back door but people either don't use it or everybody uses it and it's a free for all. The noise is out of control, they run their business much too late and don't care about the neighbors. If they did care they wouldn't let anybody use the back door. I have two young girls and they have been woken up multiple times because of the noise. We finally moved because it was unbearable. The club operates after 1am, windows open, back door is used as an entrance, intoxicated people congregate at the back smoking and talking loudly to each other and/or on the their cell phones. Police do not file a report and nothing happens because of it. Are the Police members of the club because it doesn't seem like the city is doing anything about the problem? The club does not bring in outside money/people because it is a private club so holding the club to the rules of Manhattan Beach should not be a problem...? Please do something so that the houses around 900 club can enjoy their neighborhood.

Thanks,  
[REDACTED]



February 26, 2014

Dear Planning Commission,

I am writing to you to describe the impact that living near the 900 Club has had on me as a neighbor.

In the past, before I ever approached Dave, I had suffered in silence not wanting to “rock the boat” because I knew Dave Rohrbacher personally and like so many others, I really liked him. At the time my boyfriend also was a member.

I could never open my windows at night, not even during the summer time. Many nights my options were to pack a bag and arrange to sleep somewhere else or to suffer being woken up multiple times during the middle of the night.

The worst part of living near the Club was that the members used the rear door as a front door. The rear door became a social gathering place. Large groups often congregated at the rear door smoking, yelling, laughing and intoxicated. The crowds would be in and out the door and hanging out well past 1 am, 2 am, 3 am and sometimes even 4am.

Quite frankly, if I were operating that club after hours I would have required my patrons to use the commercial front door access on Manhattan Avenue instead of the rear door. This way I would not draw attention to my activities.

The other noise problem is the fact that the building has no sound proofing (they took it out) and live bands play there. Often times the band is set up next to the open windows. The sound wafts up the hill and even with my double pane windows shut it is like having the band in my bedroom while trying to sleep. I hear every lyric, every song and the roar of the crowd.

You will hear - why did I move near a bar? I actually moved near 3 bars. I have zero problems with the other 2 – the Red Room and Circa. They are great neighbors and responsible business operators.

I have never asked the 900 Club for more than to comply with City Rules and Ordinances. Specifically when I first approached them I asked them to 1. Shut their windows during live bands and 2. Direct members to use their front door after a reasonable time. Instead Dave has told us to “F” off. “No one tells him how to operate his business.”

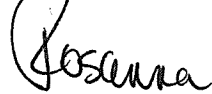
The Club management has omitted and misrepresented the facts. They purposely falsely disseminated that I am “trying to shut the Club down” to rile their members. I have been approached by over a dozen individuals detailing how Dave rants about me obsessively to anyone he gets within earshot of.

You will hear from the Club Management that I am the only one complaining. I am not the only one complaining. I and a hand full of other neighbors are the only ones that are willing to attach our identities to the complaints because of retribution from Dave. The harassment is real and ongoing. Letters submitted to Code Enforcement detailing threats and harassment experiences were filed with the City dating back to 2004. The same theme is occurring today, except The Club has taken the retribution up considerably.

I never anticipated that making simple requests would drag into this 3 year ever building hostile and threatening reaction I have gotten from Dave Rohrbacher and some of his associates or I too would have simply just moved like most others have in this neighborhood. He has made living here unbearable and intolerable. The retaliation is never ending and changes from month to month and due to this hearing has reached a peak. It became necessary for my neighbors and me to send a Cease and Desist Harassment Legal Letter to the 900 Club.

Please make the 900 Club comply with our City's rules.

Respectfully,



Rosanna Libertucci

**A partial list of the retaliation I have experienced:**

My home has been vandalized. I have had my personal and professional reputation soiled.

I have had a pile of dog excrement left at my front door after reporting an incident. I have had glass in my driveway, I have had my home egged.

Dave regularly refers to me in front of people by the most denigrating word to describe a female. I have been yelled at, told how I have angered influential people that as pillars of the community are going to crush me, make me pay and ruin me.

900 Club's inner circle have sat around and discussed ways to "black ball" me in my industry. My colleagues, my manager, my clients and people that service my industry have been approached and told damaging lies, been discouraged from associating with me and doing business with me.

To whom it may concern,

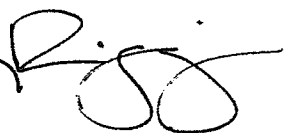
Who would have thought that I would ever have to write a letter complaining about a "Club" that continued to disturb our neighborhood for years in this little, very close, tight knit community we call home, Manhattan Beach. I felt compelled to take the time to write to you to describe the impact of living next to the Club although I have moved. It brings back many unpleasant memories.

I lived on 9<sup>th</sup> Street across from the 900 Club for 2 years until 2013. I was at my wits end, along with my neighbors and didn't know of any other option but to move to get peace. I was consistently woken up at all hours of the early morning and that is if I was lucky enough to be able to fall asleep. The 900 Club over that time frame had become increasingly more, in my opinion, belligerent and disrespectful to the neighborhood that surrounds the Club. They had loud bands (which I'm not opposed to when I'm there in person listening to it but when it's vibrating the inside of your bedroom and making your heart race and interrupting your sleep, that's when there is a real problem). They kept their windows wide open and the acoustics on our street are amazingly loud so it magnifies the bass even more. They were asked to merely close their windows and use their front door. They make a conscious choice not to. There was consistently people, at all hours, coming and going out of what is their back door and the acoustics carry the noises. I was woken up by screaming, yelling, fighting, and the sound of broken glass (I've woken up to find broken beer bottles surrounding my car), at all hours of the night – early morning. I've never understood this. I was under the impression that their back door was an Emergency Only door/exit. If it was actually their front door, wouldn't their address be on 9<sup>th</sup> Street as opposed to Manhattan Avenue? I was also under the impression that they had legal "Operating Hours" that they are, by law, bound to adhere to. I know those hours do not include 2am, 3am and 4am when intoxicated people continue to file out that back door. The noise and the disturbance is not just held to the weekend either, it can happen any night of the week as well.

I'm frustrated and disappointed at the lack of respect and support the 900 Club, some of its members and the City have shown the neighbors over the couple years when I lived there. I didn't realize this has actually been an issue since 2004 until now. This has to stop. I understand it's a business but they are nestled in a residential area. They should be bound to the same rules and regulations that a private home owner would be. If I were to throw a party, have it go until the early hours of the morning, have my guests screaming and yelling, breaking bottles and playing loud music, I can guarantee you the Manhattan Beach Police department would be called and I would be warned to shut it down. If I chose to continue the same behavior, I can guarantee you I would be ticketed and reprimanded legally, as I should be; it's disrespectful and belligerent to continue that behavior for years and get away with it. I am asking that the 900 Club be held to the same codes and laws that I would be held to. I want to be able to enjoy Manhattan Beach and where I live, it's a beautiful place and we are all very blessed and fortunate to call it home.

Sincerely,

Stacey Riggins



February 9<sup>th</sup>, 2014

To: The Planning Commission  
City Council Members  
City Officials & Police Department

I own the property on 9<sup>th</sup> Street on the south side. The 900 Club has been a nuisance over the years. Although we no longer live there and rent out the property, we have lost tenants due to the noise disturbances created by the Club.

Our tenants had small children and the noise from drunk patrons hanging out and the music woke both they and their children up regularly. They made complaints to Jackie Harris and called the police and told us that no one ever did anything about it. They also were intimidated by the bar manager as he has been known to curse out and get in confrontations with other neighbors in the past.

Our concern is that we can no longer get a good family or couple to rent our property. Only people that want to party. This is not Hermosa Beach and we expect our City Officials to do something to protect our neighborhood.

Not only in the recent past did we lose a young family that was renting our home due to the 900 Club, but we had other potential tenants that liked our rental but declined to lease it after seeing it was near the 900 Club. The Club has a reputation as an after hour's place to party.

We ask that you modify the Club's permit so that they have to abide by our laws. They are very aware of the current laws and they choose to continuously violate them week after week, month after month and year after year.

In closing, would anyone here in this room want to be consistently woken up by neighbors between 1 and 3 in the morning due to loud music and boisterous drunk people?

Sincerely,



Betty G. Kaluzok  
224 9<sup>th</sup> Street.

February 24, 2014

Dear Planning Commisioners, City Officials, City Council and MBPD.

I am writing in frustration to describe the impact on living next to the 900 Club. Keep in mind Circa and The Red Room are just as close and have no issues with them.

I have lived a few buildings from the 900 Club for over a decade. The Club has been a constant and consistent nuisance to myself, my neighbors and the neighborhood as a whole going all the way back to 2004. The nuisances to the neighborhood of the 900 Club was brought to the attention of the MBPD and City Of Manhattan Beach by myself and about a dozen neighbors at that time.

The management of the Club has always been confrontational, volatile and displayed aggression towards neighbors that speak out against the Club. Residents have been swom at directly buy management, told to "F - Off" and move if they didn't like it and most have for this reason. They all grew weary and tired that nothing was being done by the City and MBPD to correct the problems with the loud bands/music, broken bottles, trash, vomiting, urinating in on and around neighbors property. Aggressive behavior by management affected residents sense of safety - security in their homes.


I come from a well known large family owned restaurant/bar nightclub chain throughout Southern Califronia. We also operated nightclubs in residential neighborhoods, but being a "public" hospitality establishment not a "private club" we always made a conscience effort to befriend our neighbors. If our establishments were cited for violations we made the necessary changes to comply. If management did not do so we made the necessary change in management. Something the Club owners should have done at the 900 Club a long time ago. Since it is a private Club the management of the 900 Club shows complete deference, absolutely no regard for the negative impact on the residents and neighborhood. Contrary the management openly displays distain, disrespect, aggression, retribution, vandalism, libelous and slanderous actions directly and via its members, towards neighbors that speak out.

For over a decade I've been involved, all we have ever asked was the Club operate within its CUP operating hours, close their windows during amplified music or live entertainment, members use the front door on Manhattan Ave., stop exiting the rear door and congregating at all hours of the evening into early morning hours often past 2AM, 3AM and 4AM on and around Bayview Drive. Stop the littering, damaging neighbors property, post security at night to control members departing the Club.

The City's resources and MBPD have been ineffective in getting this management to simply comply with the city codes, laws and ABC requirements as well as the hours of operation per the Clubs CUP. It is long overdue that the city take action.

Respectfully,

Mark Tuccinardi

  
Bayview Drive

February 24th, 2014

To the Manhattan Beach Planning Commission, City Officials, City Council Members and Police Department

Regarding the upcoming hearing for the 900 Club;

I have lived at my residence for over 5 years now. I have experienced loud music and boisterous voices well past reasonable hours in the night emanating from the Club. On weekends I have had to pick up broken wine glasses and beer bottles around my residence as well as discarded cigarette butts, food containers and other litter. I have also found that people have vomited in the shrubs planted in the flower beds and sometimes in the curbs abutting the sidewalks in front of my residence. The Club often has their windows open with loud patrons and bands. These same patrons often congregate on the sidewalk directly in front of the Club on 9<sup>th</sup> street as well as in their back parking lot.

I am in support of our neighborhood efforts to curb the negative impact of the behaviors of this club and their disregard for the city's ordinances.

Sincerely,



Christine Munroe  
228 9th Street  
Manhattan Beach, Ca. 90266

February 15, 2014

Dear City Officials, Planning Commission, City Council Members and Police Department

Re: Hearing to modify the Conditional Use Permit for the 900 Club

I reside in the neighborhood adjacent to the Club for the past 5 years. Although I am not as close as my neighbors are, I too experience loud music late into the night that interferes with our sleep and the sleep of our 4 year old child.

The Club is well aware of the rules and has been warned many times according to my neighbors. Please do something permanent at this hearing to make the Club follow the rules everyone else has to follow.

Yours truly,



Jennifer Newbill  
821 Highland Ave.



February 23rd, 2014

To: The Manhattan Beach Planning Commission, City  
Officials, City Council Members & Police Department:

Re: Upcoming hearing for the 900 Club

My wife and I are longtime residents. We have experienced loud music and boisterous voices well past reasonable hours in the middle of the night.

We are in support of our neighborhood efforts to curb the negative impact of the Club and make them adhere to the city's ordinances.

Yours truly,

A handwritten signature in black ink, appearing to read "Glen Knabenshue". The signature is written in a cursive style with a large, sweeping loop at the end.

Glen Knabenshue  
800 Block of Bayview

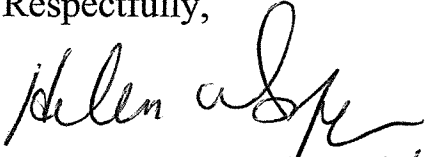
February 24th, 2014

Dear City Officials, Planning Commission, City Council Members and Police Department;

Re: Hearing for 900 Club

I am in support of the Neighbors Group. The reasonable requests made to the Club to curb the ongoing noise problems and violations of their use permit should have been resolved years ago.

Respectfully,

  
225 - 8<sup>th</sup> St.  
MB IA 90266

On Friday the 24th at about 2 AM, I was at my daughter's residence at [REDACTED] 7th St. M.B. I was awakened by excessive noises. I went up the balcony and saw much going on. People talking loudly, laughing and other strange sounds. Some sitting right outside the back door. There were few groups - also saw a couple arguing back & forth. She was running without shoes on. I was very upset and said to them that people are trying to sleep and that this is a residential area. I was completely ignored. No one should have to endure this type of behavior especially in the middle of the night.

Thank you,

Rose Zebat  
(82 years old)

Via Email to Block Captain

February 16th, 2014

To: Manhattan Beach Planning Commission,  
City Officials, City Council Members & Police Department

Re: Hearing for the 900 Club

I own a duplex in the immediate vicinity of the private 900 Club. I understand that the Club has not been abiding to its hours of operation and the city's noise ordinance.

I am in full support of the Neighbor's Group that is asking for reasonable laws to be enacted to maintain a neighborhood atmosphere and not an environment conducive to attracting late night after hour parties.

Sincerely,  
Erin Shippey  
225 9<sup>th</sup> Street

June 23, 2012

To: The City of Manhattan Beach

I am unable to make the meeting regarding the 900 Club on Monday, June 25<sup>th</sup> at 4pm so I am writing this letter in my absence.

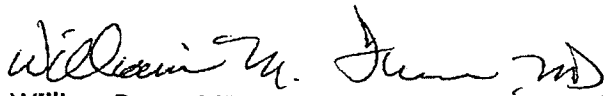
I have owned the property at 805 Bayview Drive since 1997.

This pocket of the neighborhood has had to deal with excessively loud music, intoxicated groups of bar patrons behaving badly, inappropriate use of the back door as an entrance, no sound proofing or supervision. I have had tenants complain about it and some have had to move to out because it disrupted their sleep too much

There are laws in place to prevent all of the issues above from happening to our neighborhood, but they are not being enforced & regulated properly by the police department or the city.

Please find permanent solutions to reign in the club as they will not comply on their own as this has been going on for years.

Thank you for your consideration,



William Dunn, MD  
805 Bayview Drive  
Manhattan Beach, CA 90266

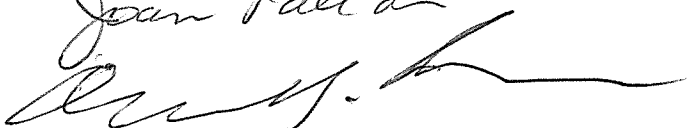
February 24th, 2014

Dear City Officials, Planning Commission, City Council Members and Police Department;

Re: Hearing for 900 Club

I am in support of the Neighbors Group. The reasonable requests made to the Club to curb the ongoing noise problems and violations of their use permit should have been resolved years ago.

Respectfully,

*Joan Pallari*  
  
218 8<sup>th</sup> ST

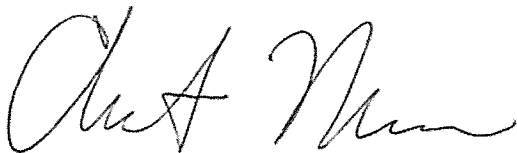
February 24th, 2014

Dear City Officials, Planning Commission, City Council Members and Police Department;

Re: Hearing for 900 Club

I am in support of the Neighbors Group. The reasonable requests made to the Club to curb the ongoing noise problems and violations of their use permit should have been resolved years ago.

Respectfully,



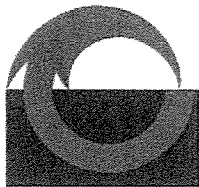
228 9th St  
Manhattan Beach, Ca  
90266

**NOISE AND SAFETY COMPLAINTS**  
**STAFF REPORT FOR 900 CLUB PUBLIC HEARING, 14 MAY 2014**  
**PDF PAGES 191-193**

**Former Police Officer Observations**  
**Aggressive Behavior**



October 2013



# Mancini & Associates

A Professional Investigation Corporation

February 14, 2014

To Whom It May Concern:

On approximately October 4th or 5<sup>th</sup> 2013, I was walking back to my home in Manhattan Beach with my roommate (Blake Reed) after having dinner in downtown Manhattan Beach. As I was walking along Manhattan Avenue, I heard what appeared to be a verbal argument across the street where one unidentified adult male was yelling extremely loud, using curse words and getting in the face of another unidentified adult male. Being that I am an investigator and former police officer with over 23 years experience, I felt compelled to determine what was transpiring. As I proceeded closer to the two aforementioned individuals, I noticed that the apparent "aggressor" continued with his verbal attack towards the other male and I observed the "passive male" put his hands up defensively asking him to stop, to be quiet, and to simply go away.

Upon proceeding closer to the two individuals, I noticed that the aggressive male smelled heavily of alcohol and appeared highly intoxicated. I also noted that his behavior was extremely aggressive and belligerent, which led me to believe that he may have possibly been under the influence of drugs or a controlled substance. I formed this opinion due to the fact that I am a trained Drug Recognition Expert having arrested hundreds of individuals for drug-related offenses.

When I asked the individuals if everything was ok, I was confronted by the aggressive male. I then told him to back away from me and the "passive male" asked me to not get involved while the aggressive male continued to yell and state, "This was his street", "This was his town" and that "Nobody tells me what to do". At this point, the "passive male" respectfully asked me to not speak with the aggressor because it would only make things worse. Ignoring his suggestion, I then proceeded to ask the aggressor to calm down and I noticed that his body was shaking and that he was obviously highly agitated and angry.

Moments later, the passive male hailed a passing taxicab and asked the aggressive male to get in it and go home. In turn, the aggressive male continued yelling at the top of his lungs stating, "Nobody tells me what to do" before continuing to insult and threaten the passive male. I also observed the aggressive male advance on the passive male in a hostile manner and for a moment, I thought he was going to physically assault the passive male. At this point, I observed the passive male tell the aggressive male that he needed to stop his violent and belligerent behavior or he (passive male) would call the police.

Ultimately, the aggressive male entered the taxicab and departed the location, however he continued to scream out the window additional threats towards the passive male. Please be advised that I do not recall the specific threats that he was making.

Exceptional investigators. Remarkable results.™

After the aggressive male departed the location, I spoke with the passive male and he told me that he was the owner of a small bar nearby and that the aggressive male owned the bar upstairs from his bar. I then identified myself to the passive male and he thanked me before informing me that the aggressive male was apparently headed for trouble. After speaking with the passive male for a few moments, I proceeded on my way and as I continued on my way home, the passive male thanked me and asked if he could obtain my name and telephone number, at which time I provided it to him. He then identified himself as Lou Giovanetti. Mr. Giovanetti then asked me that in case a complaint arises due to the aforementioned incident, could I speak about my observations of what transpired and I stated yes. He then explained that he has had numerous verbal altercations with the aggressive male and that there have been numerous complaints from nearby neighbors about him creating a disturbance on the sidewalk outside the bar.

In closing, it is my opinion that Mr. Giovanetti handled the aforementioned incident in a professional, calm and tactful manner despite the fact that he was dealing with an individual who obviously was under the influence of either alcohol and/or narcotics and was extremely agitated, aggressive and looking to escalate the situation to a violent level.

If you have any questions, please feel free to contact my office at your convenience. My office number is (800) 719-1574.

Regards,

David Mancini

**NOISE AND SAFETY COMPLAINTS**  
**STAFF REPORT FOR 900 CLUB PUBLIC HEARING, 14 MAY 2014**  
**PDF PAGES 194-196**

**Cease and Desist Harassment Letter**

**900 Club, February 20, 2014**

STRUMWASSER & WOOCHER LLP

ATTORNEYS AT LAW

10940 WILSHIRE BOULEVARD, SUITE 2000  
LOS ANGELES, CALIFORNIA 90024

TELEPHONE: (310) 576-1233  
FACSIMILE: (310) 319-0156  
[WWW.STRUMWOOCH.COM](http://WWW.STRUMWOOCH.COM)

FREDRIC D. WOOCHER  
MICHAEL J. STRUMWASSER  
GREGORY G. LUKE †‡  
BRYCE A. GEE  
BEVERLY GROSSMAN PALMER  
RACHEL A. DEUTSCH  
PATRICIA T. PEI  
ADRIENNA WONG

†Also admitted to practice in New York  
‡Also admitted to practice in Massachusetts

February 20, 2014

Robert Courtney  
120 Fishermans Wharf  
Redondo Beach, CA 90278  
VIA OVERNIGHT MAIL AND PERSONAL DELIVERY

RE: 900 Club Harassment of Neighboring Residents

Dear Mr. Courtney:

I write on behalf of residents living near the 900 Club, to bring to your attention the inappropriate and potentially legally damaging conduct by the management of the 900 Club. For nearly a decade, 900 Club management has unlawfully harassed our clients, and club members have joined in the campaign of intimidation. By this letter, we demand that the 900 Club cease and desist all harassment of its neighbors, and that the 900 Club instruct its members to do so as well.

Apparently in response to noise complaints filed with the City of Manhattan Beach regarding operations and patrons at the 900 Club, club management and its members have threatened our clients' physical safety and livelihoods. For example – and this is by no means an exhaustive list of the inappropriate and harassing conduct directed towards our clients:

- 900 Club manager Dave Rohrbacher threatened to physically assault an individual for associating with one of our clients.
- Mr. Rohrbacher and club members threatened a client that they would “financially ruin her,” and “make her pay.”
- Mr. Rohrbacher aggressively confronted another neighbor and told him to move.
- A club member directed profanities and rude gestures at our client outside of his home.
- Club members intentionally interfered with our client's professional and contractual relations, by pressuring colleagues to stop doing business with her and by urging clients to convince her to back down on the 900 Club.

Mr. Rohrbacher has also circulated damaging information about a client's professional practice, falsely asserting that, as a realtor, she failed to make necessary disclosures prior to selling her property near the 900 Club. His comments have had the effect of damaging our client's reputation as a realtor, as well as her existing and prospective business relations. Such comments are defamatory *per se*.

Harassment of our clients has increased after the City of Manhattan Beach has investigated complaints about the club. Our client's property has been vandalized on several occasions, after she complained about the club to City officials. The history of intimidation and retaliation by 900 Club

February 20, 2014  
Page 2

management and members against neighbors of the 900 Club has made many affected parties hesitant to speak up about the club's impacts on their quality of life.

The City of Manhattan Beach has initiated proceedings to revoke or modify the Conditional Use Permit of the 900 Club, reflecting the City's concern that the 900 Club does not abide by the terms of its permit and operates in a manner that is detrimental to surrounding residents. Inappropriate conduct by 900 Club management or members will only further the perception that the 900 Club views itself above the law. In light of the upcoming revocation hearing on February 26, 2014, your prompt action in advising the management of the 900 Club to refrain from harassing neighborhood residents or any other individuals who may participate in that hearing is critical. We also ask that you caution your client against inciting its members to harass any of the club's neighbors in retaliation for their participation in the hearing. Indeed, we request that your client ask its members to respect the integrity of the Planning Commission proceedings and to refrain from joining in any harassment of the 900 Club's neighbors.

If harassment of our clients persists in the days leading up to or in the wake of the February 26 hearing, the 900 Club will expose itself to potential liability. Management's action to date would support a lawsuit for harassment, slander, false light, intentional interference with contract and prospective economic advantage, commercial disparagement, intentional infliction of emotional distress, and unfair business practices under the laws of the State of California. The remedies for such causes of action include injunctive relief and substantial monetary damages. Continued harassment will force our clients to seek restraining orders or press criminal charges if appropriate. If our clients are forced to file suit to stop the wrongful conduct of the 900 Club and/or its members, they will also seek attorneys' fees and litigation expenses.

Our clients have already reported the harassment described above to City officials. They have specifically notified City officials that the actions of the 900 Club's manager and members have caused them to fear for their personal safety and the safety of their properties. Mr. Rohrbacher's behavior was so volatile following an incident, that a City official cautioned one of our clients to stay out of sight for a couple days. Because these threats are known to City staff and officials, we expect that the City will take all appropriate action against the 900 Club, if the harassment continues.

Because everyone involved will benefit from a meaningful and orderly Planning Commission hearing and cessation of the harassment of our clients, we anticipate no further problems once you advise your client and its members of the potential legal consequences of their actions. Thank you in your advance for your cooperation in this matter.

Sincerely,



Beverly Grossman Palmer  
STRUMWASSER & WOOCHER LLP

Planning Commission  
City of Manhattan Beach  
1400 Highland Ave.  
Manhattan Beach, CA 90266

Dear Planning Commissioners,

I write to you regarding the revocation/modification of the permit for the 900 Club. First, let me say it's about time. Looking back through my files, in 2000, I complained to the Planning Commission about the problems with the nightclub at 9<sup>th</sup> and Manhattan Ave. Of course, that was long before your time.

I own the property along the south side of the Tenth St. walkstreet, from Manhattan Ave. to Bayview Drive, including the four-unit residential building at 919 Bayview. I mostly worry about the impacts from the 900 Club on my tenants in the apartments. They have the 9<sup>th</sup> St. nightclub on the south and the city parking lot to the east, where the drunks park. The end of this email lists my properties on the block occupied by the 900 Club.

According to my files, regarding bars disturbing my tenants, I have complained to Mr. Thompson, the ABC and the Coastal Commission, in addition to the Planning Commission. But nothing ever changes; truthfully, it only gets worse.

In one letter, I wrote, "People coming from the bars to the parking lot urinate in the lobby of my building. We have fights out there. Police have to come, and they make lots of noise. Once, somebody forgot to set their brake, and the car rolled into my building. We do not need any more drunks coming to that parking lot late at night."

Unfortunately, living in Rancho Mirage, I am unable to attend your meeting. I hope that you can do something about these problems. I have owned these properties for decades. Frankly, I am skeptical that anything good will come out of this, but I certainly appreciate your efforts on my behalf.

Yours truly,

Ed Stevens

[stevens29@verizon.net](mailto:stevens29@verizon.net)

Owner: 916 Manhattan Ave, 920 Manhattan Ave, 206 10th St and 919 Bayview Dr,

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

912 THE STRAND

Street Name (Number not necessary, but please print)

ALTHEA HOEB

Name (Please print)

Name (Please print)

Althea Hoeb

Signature

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

*1st choice*

I/We want the 900 Club use permit revoked

*2nd choice*

I/We want the 900 Club use permit modified to stop the disturbances

I/We do not support any additional regulation of the 900 Club

**COMMENTS**

*This is a quiet residential neighborhood - let's keep it that way!*

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

116 8<sup>th</sup> street

Street Name (Number not necessary, but please print)

Virginia Johnson R. Earnest Koch  
Name (Please print) Name (Please print)

Virginia Johnson Richard Koch  
Signature Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**



**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

11<sup>th</sup> St

Street Name (Number not necessary, but please print)

MAXINE BROWN

Name (Please print)

\_\_\_\_\_

Name (Please print)

Maxine Brown

Signature

\_\_\_\_\_

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

9TH PL

Street Name (Number not necessary, but please print)

JOHN K. McENAY  
Name (Please print)

SHIZUE McENAY  
Name (Please print)

John K. McEnay  
Signature

Shizue McEnay  
Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

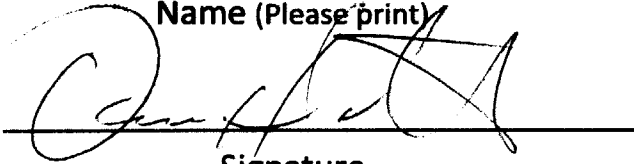
125 10th STREET

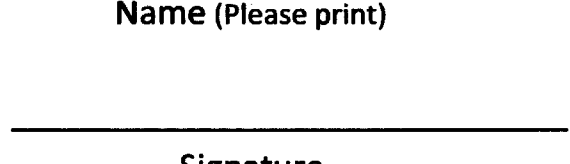
Street Name (Number not necessary, but please print)

DARRELL & DEBBIE Hudallester

Name (Please print)

Name (Please print)





Signature

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

THE CLUB SHOULD PAY FOR POLICE  
CALLS MADE TO CLUB FROM  
I AM TO GAIN -- THAT  
MIGHT STOP SOME OF THE  
COMPLAINTS

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

8<sup>th</sup> STREET

Street Name (Number not necessary, but please print)

NORMAN FREESTONE

Name (Please print)

Norman Freestone

Name (Please print)

PAUL M FREESTONE

Signature

[Handwritten Signature]

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

I/We want the 900 Club use permit revoked

I/We want the 900 Club use permit modified to stop the disturbances

I/We do not support any additional regulation of the 900 Club

**COMMENTS**

THIS NOISE IS DETRIMENTAL  
TO OUR HEALTH AND OUR SLEEP.

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

9<sup>th</sup> St.

Street Name (Number not necessary, but please print)

Marilyn Green

Name (Please print)

\_\_\_\_\_

Name (Please print)

Marilyn Green

Signature

\_\_\_\_\_

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

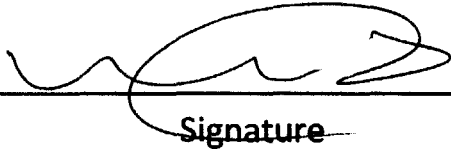
I/WE <sup>\$</sup> reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

~~900 Manhattan Ave~~ Ninth Place

Street Name (Number not necessary, but please print)

Marc Theodore

Name (Please print)



Signature

Name (Please print)

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

Please make the following changes to their permits:  
No live bands or DJs ever, No loud music ever. Shorten their hours to close at 11pm. Only allow entrance and exit of 900 club on Manhattan Ave. ~~at all hours~~. Keep back door closed at all hours.

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

The Strand

Street Name (Number not necessary, but please print)

VIRGINIA SHEARER

Name (Please print)

Name (Please print)

Virginia Shearer

Signature

Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

8TH Street

Street Name (Number not necessary, but please print)

Helen Griffin

Name (Please print)

CHRIS Griffin

Name (Please print)

Helen  
Signature

Chris Griffin  
Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**



**INDIVIDUAL PETITION REGARDING REVOCATION/MODIFICATION  
OF USE PERMIT FOR 900 CLUB**

Located at 900 Manhattan Ave, Manhattan Beach CA, 90266

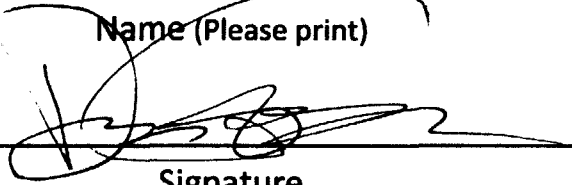
I/WE reside at or own property in Manhattan Beach, near the 900 Club, on the following street:

10<sup>TH</sup> ST.

Street Name (Number not necessary, but please print)

DON CARPENTER

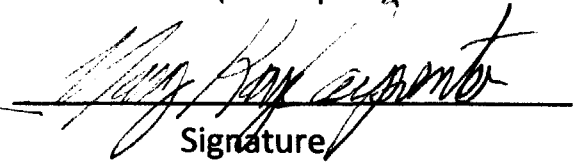
Name (Please print)



Signature

MARY KAYE CARPENTER

Name (Please print)



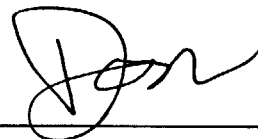
Signature

My/Our opinion regarding revocation or modification of the 900 Club use permit:

- I/We want the 900 Club use permit revoked
- I/We want the 900 Club use permit modified to stop the disturbances
- I/We do not support any additional regulation of the 900 Club

**COMMENTS**

IT'S A PRIVATE CLUB, SHOULD BE EASY TO CONTROL THE MEMBERS!  
APPARENTLY IT'S NOT, BECAUSE THEY DON'T CARE!



# **EXHIBIT B**



JENKINS  
310, 302, 5061

Robert V. Wadden Jr.  
City Attorney 1400 Highland Avenue Manhattan Beach, CA 90266-4795  
Telephone (310) 802-5061 FAX (310) 802-5251 TDD (310) 546-3501

December 2, 2004

Re: 900 Club Nuisance Issues

Dear 900 Club Neighbor,

After our meeting with neighbors of the 900 club on November 12 we met with the ownership and management of the club on November 17. At that meeting the club ownership was warned about being open after the hours specified in its use permit and requested to curtail the use of the back door by customers. The club owners agreed to do this but were not prepared to specify how they would do it. They asked if City staff would meet with them at the club on December 1 to discuss the measures to be taken to restrict access to the rear door.

The Fire Code requires that the rear door be available as an emergency exit therefore it is not possible to keep it permanently locked during business hours. However, it is possible to restrict access to the rear door. At the December 1 meeting the club owners, despite the fact that nothing in their use permit regulates use of the back door, agreed to renovate the front door area and reprogram the keypad to allow all private club members access. In the upstairs private club area saloon doors have been added to the entrance to the hallway leading to the back door and a sign has been posted on the inside reading "employees only." The rear door itself is now a push bar fire door locking automatically upon closure which cannot be opened from the outside. The rear door key pad has been reprogrammed to remove the access numbers for all members allowing access only to owners and employees. The club has agreed to post a sign on the outside of the rear door which will read "employees only." The club owners indicated that it has sent e-mails to all its members informing them of the change in procedure. The changes to keypads and hardware should be final by Friday, December 3.

Fire Department Address: 400 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 802-5201

Police Department Address: 420 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 802-5107

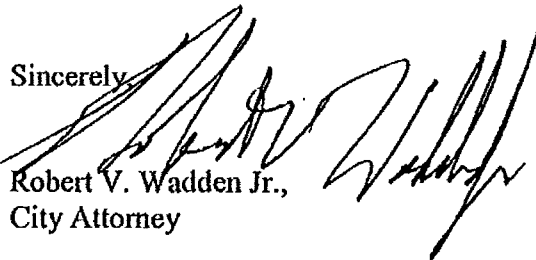
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 546-1752

<http://www.ci.manhattan-beach.ca.us>

900-Lgl-035

900 Club Neighbors  
December 2, 2004  
Page 2 of 2

The Manhattan Beach Police Department will continue to monitor adherence to closing hours as well as respond to your complaints. We urge you to provide us your feedback over the next couple of weeks to let us know how the measures described above have been fully implemented, if they are working and if you perceive an improvement. Please direct calls and e-mails to Code Enforcement Officer Jacqueline Harris. She will direct the call to other City officials as appropriate. Thank you for your patience and forbearance.

Sincerely,  
  
Robert V. Wadden Jr.,  
City Attorney

cc: Dale Reissig, Police Captain  
Carol Jacobson, Building Official  
Rosie Lackow, Senior Planner  
Jacqueline Harris, Code Enforcement Officer

# **EXHIBIT C**

**City of Manhattan Beach  
Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

**EXHIBIT K  
PC MTG 2/26/14**

	<b>Establishment</b>	<b>Address</b>	<b>Approved Hours of Operation</b>	<b>Approved Alcohol Hours</b>	<b>Alcohol License</b>	<b>Resolution Nos. &amp; Dates</b>	<b>Entertainment</b>
1	Houston's Restaurant	1550 Rosecrans Ave.	6am-12am, Daily	6am-12am, Daily	Full Liquor	90-19 07/25/90	None
2	Century Club	304 12th Street	10am-12am, Sun-Thu 10am-1am, Fri-Sat	10am-12am, Sun-Thu 10am-1am, Fri-Sat	Full Liquor	87-36 12/08/87	Live Entertainment & Dancing
3	Kettle	1138 Highland Ave.	24 Hours Daily	11am-1am	Beer & Wine	83-06 01/11/83	None
4	Rockefeller	1209 Highland Ave.	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	Beer & Wine	07-04 05/09/07	None
5	Marine Street Café	2201 Highland Ave.	6am-10:30pm, Daily Patio Dining Stops @ 9pm, Sun-Thu	6am-10:30pm, Daily Patio Dining Stops @ 9pm, Sun-Thu	Beer & Wine	03-10 5/14/03	None
6	Beach Pizza	3301 Highland Ave.	11am-12am, Sun-Thu 11am-1am Fri-Sat	11am-12am, Sun-Thu 11am-1am Fri-Sat	Beer & Wine	84-31 07/24/84	None
7	The Local Yolk	3414 Highland Ave.	6am-12am, Daily 6am-11pm Outdoor Dining	6am-12am, Daily 6am-11pm Outdoor Dining	Beer & Wine	02-26 08/14/02	None
8	Sloopy's Beach Café	3416 Highland Ave.	Unspecified opening time, Closes by 9 pm	Unspecified opening time, Closes by 9 pm	Beer & Wine	83-14 03/22/83	None
9	North End Café	3421 Highland Ave	7am-10pm, Sun-Thu 7am-11pm, Fri-Sat	7am-10pm, Sun-Thu 7am-11pm, Fri-Sat	Beer & Wine	10-06 8/25/10	None
10	Four Daughters	3505 Highland Ave.	Unspecified opening time, Closes by 2am	6am-2am, ABC	Beer & Wine	82-32 10/12/82	None
11	Sharkeez	3600 Highland Ave.	No Limits Specified	6am-2am, ABC	Full Liquor	89-19 05/23/89	No more than 5 musicians. Live entertainment must stop by 1am
12	OB's Bar & Grill	3610 Highland Ave.	8am-2am, Daily	8am-2am, Daily	Full Liquor & Caterers	92-22 10/20/92	Live entertainment 8pm-1am Thu-Sat; 3pm-9pm Sun/Holidays No dancing
13	Pancho's	3615 Highland Ave.	Unspecified Opening Time 2am (Rest, Bar, Lounge) 9pm (Deck & Patio)	6am-2am, ABC	Full Liquor	76-10 02/10/76	2 Musicians
14	Vacant (01/16/2014)	3713 Highland Ave.	7am-1am, Daily	7am-1am, Daily	Beer & Wine	84-40 09/01/84	Alcohol service with food only, low background music only
15	Summers	3770 Highland Ave.	Unspecified opening time, Closes by 2am	6am-2am, ABC	Full Liquor	82-25 08/24/82	None

**City of Manhattan Beach  
Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

	<b>Establishment</b>	<b>Address</b>	<b>Approved Hours of Operation</b>	<b>Approved Alcohol Hours</b>	<b>Alcohol License</b>	<b>Resolution Nos. &amp; Dates</b>	<b>Entertainment</b>
16	FishBar	3801 Highland Ave.	9am-2am, Daily	9am-2am, Daily	Full Liquor	89-50 12/19/89	None
17	The Strand House	117 Manhattan Beach Blvd.	10am-12am, Mon-Thu 10am-1am, Fri 8am-1am, Sat 8am-12am, Sun	10am-12am, Mon-Thu 10am-1am, Fri 8am-1am, Sat 8am-12am, Sun	Full Liquor	CC Reso. 6304 04/19/11 PC 11-02 02/23/11	Live Entertainment & Dancing Fri-Sat, till 1am Thu & Sun, till 11:30pm
18	Manhattan Pizzeria	133 Manhattan Beach Blvd.	6am-2am, Daily	6am-2am, Daily	Beer & Wine	CC Reso. 5175 06/20/95 86-38 12/09/86	None
19	Sharks Cove	309 Manhattan Beach Blvd.	7am-2am, Daily	7am-2am, Daily	Full Liquor	03-24 12/10/03	3 nonamplified muscians, no later than 12am
20	Hennesseys	313 Manhattan Beach Blvd.	11am-2am, Daily No Outdoor Dining After 10pm When Entertainment Performs	11am-2am, Daily	Full Liquor	83-18 04/26/83	Live entertainment til 1:30am, Mon-Sun
21	Café Pierre	317 Manhattan Beach Blvd.	9am-1am, Daily	9am-1am, Daily	Full Liquor & Caterer's	94-20 07/13/94	2 entertainers til 1am Fri, Sat & 12am Sun
22	Fusion Sushi	1150 Morningside Dr.	9am-11pm Sun-Wed 7am-12am Thu-Sat	9am-11pm Sun-Wed 7am-12am Thu-Sat	Beer & Wine	05-05 03/23/05	Entertainment/Dancing for Private Parties In Banquet Room Only Thu-Sat
23	Pitfire Pizza	401 Manhattan Beach Blvd.	7am-11pm, Daily	7am-11pm, Daily	Beer & Wine	05-05 03/23/05	None
24	Little Sister	1131 Manhattan Ave.	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	Beer & Wine	CC Reso. 5175 06/20/95	None
25	Post	1142 Manhattan Ave.	11am-11pm, Mon-Wed 11am-12am, Thu-Fri 7am-12am, Sat 7am-11pm, Sun	11am-11pm, Mon-Wed 11am-12am, Thu-Fri 7am-12am, Sat 7am-11pm, Sun No Alcohol on Patio After 10pm	Full Liquor	CC 5513 10/19/99	"Kids Night" Monday 5pm-7pm
26	Katsu	302 Rosecrans Ave.	5pm-11pm, Sun-Thu 5pm-12am, Sat-Sun	5pm-11pm, Sun-Thu 5pm-12am, Sat-Sun	Beer & Wine	02-11 03/27/02	None
27	Verandas	401 Rosecrans Ave.	7am-12am, Daily	7am-12am, Daily	Full Liquor	99-15 05/26/99	Entertainment/Dancing subject to permit

**City of Manhattan Beach  
Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

	<b>Establishment</b>	<b>Address</b>	<b>Approved Hours of Operation</b>	<b>Approved Alcohol Hours</b>	<b>Alcohol License</b>	<b>Resolution Nos. &amp; Dates</b>	<b>Entertainment</b>
28	Aji Sushi	1019 Manhattan Beach Blvd.	11:30am-3pm, Mon-Fri 5pm-12am, Sun-Thu 5pm-1am, Fri-Sat	11:30am-3pm, Mon-Fri 5pm-12am, Sun-Thu 5pm-1am, Fri-Sat	Full Liquor	83-43 08/09/83	None
29	Grunions	1501 Sepulveda Blvd.	No Resolution	No Resolution	Full Liquor	No Resolution	
30	The Castle	2401 Sepulveda Blvd.	Unspecified opening time, Closes by 2am	6am-2am, ABC	Full Liquor	80-12 06/22/80	None
31	Cocos	2620 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
32	The Schooner	1120 22nd St.	No Limits Specified	No Limits Specified, Alcohol Served In Conjunction with Food Service	Full Liquor	81-07 02/10/81	None
33	Residence Inn	1700 N. Sepulveda Blvd.	No Limits Specified	4pm-9pm, Daily Hospitality Service	Beer & Wine	90-24 09/19/90	None
34	Sesame Moe's	2640 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Beer & Wine	01-27 12/12/01	None
35	CA Pizza Kitchen	3280 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
36	China Grill	3282 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Beer & Wine	01-27 12/12/01	None
37	Joeys Smokin BBQ	3564 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Beer	01-27 12/12/01	None
38	Chili's	2622 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
39	Tin Roof Bistro	3500 N. Sepulveda Blvd. Ste. 100	11am-12am, Daily	11am-12am, Daily	Full Liquor	CC 01/06/09 Minute Action 08-15 11/12/08 01-27 12/12/01	None
40	Tin Roof Bistro (Private Dining Area)	3500 N. Sepulveda Blvd. Ste. 120	8am-12am, Daily	8am-12am, Daily	Beer & Wine	12-02 02/08/12	None
41	Lido Di Manhattan Beach	1550 Rosecrans Ave. Suite G	6am-2am, Daily	6am-2am, Daily	Full Liquor	90-30 10/10/90	None
42	Bristol Farms	1570 Rosecrans Ave. Suite H	7am-10pm, Daily	7am-10pm, Daily	Beer & Wine & Off Sale General	90-29 10/10/90	None



**City of Manhattan Beach  
Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

	<b>Establishment</b>	<b>Address</b>	<b>Approved Hours of Operation</b>	<b>Approved Alcohol Hours</b>	<b>Alcohol License</b>	<b>Resolution Nos. &amp; Dates</b>	<b>Entertainment</b>
43	Union Pizza Company	1570 Rosecrans Ave. Suite K	9am-12am, Daily	9am-12am, Daily	Beer & Wine	91-04 03/13/91	None
44	Samari Sams Grill	1570 Rosecrans Ave. Suite P	6am-12am, Daily	6am-12am, Daily	Beer & Wine	04-12 06/14/04	None
45	Rubios Baja Grill	2000 Sepulveda Blvd.	No Limits Specified	Must Be In Conjunction w/ Food Service at All Hours	Beer & Wine	08-05 04/09/08	4 Video Games
46	Olive Garden	2610 Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
47	Islands	3200 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
48	Brickworks Roasthouse & Grill	3212 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
49	Belamar Hotel	3501 N. Sepulveda Blvd.	Garden Room & Outdoor Patios: 9am-10pm, Sun-Thu 9am-11pm, Fri-Sat No Other Limits Specified	Not Specified	Full Liquor	91-08 04/23/91	None
50	El Sombrero #2	1157 Artesia Blvd. Suite B	11am-10pm, Daily	11am-10pm, Daily	Beer & Wine	84-30 06/26/84	None
51	El Tarasco	350 N. Sepulveda Blvd. #2	10am-11pm, Daily	10am-11pm, Daily	Beer & Wine	05-03 01/26/05	None
52	Big Wok	350 N. Sepulveda Blvd	11:30am-10pm, Daily	11:30am-10pm, Daily	Beer & Wine	CC 5617 11/07/00	
53	Mr. Pockets	516 N. Sepulveda Blvd.	11am-2am, Daily	11am-2am, Daily	Full Liquor	90-04 01/23/90	Pool Tournaments
54	India's Tandoori	916 N. Sepulveda Blvd.	11am-9pm, Mon-Thu 11am-11pm, Fri 8am-11pm, Sat 8am-8pm, Sun	11am-9pm, Mon-Thu 11am-11pm, Fri 8am-11pm, Sat 8am-8pm, Sun	Beer & Wine	00-38 12/13/00	None
55	Cantina Real	926 N. Sepulveda Blvd.	Unspecified opening time, Closed by 12am, Sun-Thu Closed by 1am, Fri-Sat	Unspecified Start Time, End by 12am, Sun-Thu End by 1am, Fri-Sat	Full Liquor	84-43 09/25/84	None
56	The Hanger Inn	1001 S. Aviation Blvd.	No Resolution	No Resolution	Beer	No Resolution	
57	Vacant (01/16/2014)	500 S. Sepulveda Blvd	6am-10pm, Sun-Thu 6am-12am, Fri-Sat	6am-10pm, Sun-Thu 6am-12am, Fri-Sat	Beer & Wine	95-20 07/12/95	None
58	El Torito	600 S. Sepulveda Blvd.	11am-12am, Daily	11am-12am, Daily	Full Liquor	94-33 11/09/94	None

**City of Manhattan Beach  
Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

	<b>Establishment</b>	<b>Address</b>	<b>Approved Hours of Operation</b>	<b>Approved Alcohol Hours</b>	<b>Alcohol License</b>	<b>Resolution Nos. &amp; Dates</b>	<b>Entertainment</b>
59	Versailles	1000 N. Sepulveda Blvd.	7am-10pm, Daily	7am-10pm, Daily	Full Liquor	86-25 09/09/86	None
60	Sion's	235 S. Sepulveda Blvd.	7am-10pm, Mon-Sun	7am-10pm, Mon-Sun	Beer & Wine	CC 4338 07/01/86	None
61	Osho	913 N. Sepulveda Blvd.	No Resolution	No Resolution	Beer & Wine	No Resolution	
62	Thai Dishes	1015 N. Sepulveda Blvd.	11am-10:30pm, Daily	11am-10:30pm, Daily	Beer & Wine	89-03 01/24/89	None
63	El Gringo	921 N. Sepulveda Blvd.	No Resolution	No Resolution	Beer & Wine	No Resolution	
64	Izaka-Ya	1133 Highland Ave.	11:00am-11:00pm Sun-Wed 11:00am-12am Thu-Sat	11:00am-11:00pm Sun-Wed 11:00am-12am Thu-Sat	Beer & Wine	10-04 07/14/10	None
65	Shellback	116 Manhattan Beach Blvd.	No Resolution	No Resolution	Full Liquor	No Resolution	
66	Rock N Fish	120 Manhattan Beach Blvd.	7am-12am, Sun-Thu 7am-1am, Fri-Sat	7am-12am, Sun-Thu 7am-1am, Fri-Sat	Full Liquor	99-04 02/10/99	None
67	MB Brewing Co	124 Manhattan Beach Blvd.	7am-12am, Sun-Thu 7am-1am, Fri-Sat	7am-12am, Sun-Thu 7am-1am, Fri-Sat	Full Liquor	09-01 01/14/09	None
68	Mangiamo	128 Manhattan Beach Blvd.	11am-12am, Mon-Sat 8am-12am, Sun	11am-12am, Mon-Sat 8am-12am, Sun	Full Liquor	83-28 06/14/83	Maximum 3 musicians, nonamplified
69	Rice	820 Manhattan Ave.	7am-10:30pm, Sun-Thu 7am-11:30pm, Fri-Sat	7am-10:30pm, Sun-Thu 7am-11:30pm, Fri-Sat	Beer & Wine	89-23 06/27/89	Nonamplified live music
70	900 Manhattan Club/Red Room	900 Manhattan Ave.	9am to 12am Sunday 11am-12 am, Mon-Thu 11am-1 am, Fri 9am-1am, Sat	9am to 12am Sunday 11am-12 am, Mon-Thu 11am-1 am, Fri 9am-1am, Sat-Sun	Full Liquor	CC Reso. 5155 04/04/95	Live allowed on 2nd floor Dancing allowed on Fri/Sat nights
71	Circa	903 Manhattan Ave.	11am-12am, Sun-Thu 11am-2am, Fri-Sat	11am-12am, Sun-Thu 11am-2am, Fri-Sat	Full Liquor	CC Reso. 4108 01/03/84	No Limit
72	Old Venice	1001 Manhattan Ave.	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	Beer & Wine	07-09 06/25/07	None
73	El Sombrero	1005 Manhattan Ave.	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	Beer & Wine	07-09 06/25/07	None
74	Fonzs	1017 Manhattan Ave.	9am-9pm, Sun 5:30am-10pm, Mon-Thu 5:30am-11pm, Fri-Sat	9am-9pm, Sun 5:30am-10pm, Mon-Thu 5:30am-11pm, Fri-Sat	Full Liquor	01-04 02/14/01	None
75	Ercoles	1101 Manhattan Ave.	11am-2am, Daily	11am-2am, Daily	Full Liquor	85-32 11/12/85	None

**City of Manhattan Beach  
Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

	<b>Establishment</b>	<b>Address</b>	<b>Approved Hours of Operation</b>	<b>Approved Alcohol Hours</b>	<b>Alcohol License</b>	<b>Resolution Nos. &amp; Dates</b>	<b>Entertainment</b>
76	Mama D's	1125 A Manhattan Ave.	6am-11pm, Sun- Thu 6am-1am, Fri-Sat	6am-11pm, Sun- Thu 6am-1am, Fri-Sat	Beer & Wine	CC Reso. 5175 06/20/95	None
77	Wahoo's	1129 Manhattan Ave.	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	Beer & Wine	CC Reso. 5312 02/18/97	None
78	Darren's Restaurant	1141 Manhattan Ave.	11am-11pm, Sun-Thu 6am-12am, Fri-Sat	11am-11pm, Sun-Thu 6am-12am, Fri-Sat	Full Liquor	02-28 08/28/02	None
79	Fishing with Dynamite	1148 Manhattan Ave.	7am-11pm, Sun-Wed 7am-12am, Thu-Sat	7am-11pm, Sun-Wed 7am-12am, Thu-Sat	Full Liquor	01-24 11/28/01	None
80	Crème De La Crepe	1140 Highland Ave.	6am-10pm, Sun-Thu 6am-11pm, Fri-Sat	6am-10pm, Sun-Thu 6am-11pm, Fri-Sat	Beer & Wine	02-14 05/08/02	None
81	Simmzy's	229 Manhattan Beach Blvd.	6am - 11pm, Mon-Thu 6am-12am, Fri-Sat	6am - 11pm, Mon-Thu 6am-12am, Fri-Sat	Beer & Wine	03-20 01/22/03	None
82	Le Pain Quotidien	451 Manhattan Beach Blvd.	7am-7:30pm, Daily	10am-7:30pm, Daily	Limited Selection of Beer & Wine	CC 5770 07/16/02 08-08 05/14/08	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More
83	Shade Hotel	1221 Valley Drive	Zinc Lobby Bar & Zinc Terrace: 11pm Daily Interior Courtyard (for Special Events Only) 11pm, Sun-Thurs 12am, Fri-Sat Rooftop Deck, 10pm Daily	Zinc Lobby Bar & Zinc Terrace: 11pm Daily Interior Courtyard (for Special Events Only) 10:30pm, Sun-Thurs 11:30pm, Fri-Sat Rooftop Deck, 9pm Daily	Full Liquor	05-08 05/25/05 CC 5770 07/16/02 (CC 6275 07/09/10 Hours Not Shown As Reso. Not Yet Implemented)	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More
84	Petro's	451 Manhattan Beach Blvd Suite B-110	6am-12 am, Sun-Thu 6am-1am, Fri-Sat	6am-11:30pm, Sun-Thu 6am-12:30am, Fri-Sat	Full Liquor	06-20 12/13/06 CC 5770 07/16/02	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More

**City of Manhattan Beach**  
**Citywide List of Restaurants and Bars with On-Sale Alcohol Service**

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
85	Vacant (01/16/2014)	451 Manhattan Beach Blvd Suite D-126 1200 Morningside	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	6am-10:30pm, Sun-Thu 6am-11:30pm, Fri-Sat	Full Liquor	CC 5770 07/16/02	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More
86	Il Forniao	1800 Rosecrans Ave. Unit F	6am-2am, Daily	6am-2am, Daily	Full Liquor	98-25 08/12/98	None
87	Sushi Ya Matsu	210 N Aviation Blvd Manhattan Triangle	6am-11pm, Daily	6am-11pm, Daily	Beer & Wine	02-21 07/24/02	None
88	Vacant (01/16/2014)	1605 N. Sepulveda Blvd.	7am-10pm Sunday to Thursday, 7am-12am, Friday and Saturday	7am-10pm Sunday to Thursday, 7am-12am, Friday and Saturday	Beer & Wine	CC 6322 07/05/11	Family style business, no outside sound, no bar seats, no beer and wine without a meal, rear driveway at Oak Ave. close by 10pm

# **EXHIBIT D**

**20 OF 24 BEACH CUPS GRANTED SINCE 2000  
CLOSE 11 PM OR BEFORE ON WEEKDAYS**

Code 1: Close **on or before 11 PM Sun-Thu and midnight Fri-Sat**; Only Shade Hotel has music and dancing

Code 2: Close **after 11 PM Sun-Thu and midnight Fri-Sat**; Sharks, Strand, MB Brewing grandfathered

Index	Name	Address	Alcohol Close Time	CUP Date	Code
1	Rockerfeller	1209 Highland Ave	11pm S-T; 12am F-S	9-Apr-07	1
2	Marine St Cafe1	2201 Highland Ave	10:30pm Daily	14-May-03	1
3	The Local Yolk	1414 Highland Ave	12am Ddaily	14-Aug-02	1
4	North End Café	3421 Highland Ave	10pm S-T; 11pm F-S	25-Aug-10	1
5	Strand House	117 MB Blvd	12am S-T; 1am F-S	23-Feb-11	2
6	Sharks Cove	309 MB Blvd	2am Daily	10-Dec-03	2
7	Fusion Sushi	1150 Morningside Dr	11pm S-W; 12am T-S	23-Mar-05	1
8	Pitfire Pizza	401 MB Blvd	11pm daily	23-Mar-05	1
9	Katsu	302 Rosecrans Ave	11pm S-T; 12am F-S	27-Mar-02	1
10	Izka-Ya	1133 Highland Ave	11pm S-W; 12am T-S	14-Jul-10	1
11	MB Brewing	124 MB Blvd	12am S-T; 1am F-S	14-Jan-09	2
12	Old Venice	1001 Manhattan Ave	11pm S-T; 12am F-S	25-Jun-07	1
13	El Sombrero	1005 Manhattan Ave	11pm S-T; 12am F-S	25-Jun-07	1
14	Fonz's	1017 Manhattan Ave	9pm S; 10 pm M-T; 11pm F-S	14-Feb-01	1
15	Darren's	1141 Manhattan Ave	11pm S-T; 12am F-S	28-Aug-02	1
16	Fishing with Dynamite	1148 Manhattan Ave	11pm S-T; 12am F-S	28-Nov-01	1
17	F Grill	1140 Manhattan Ave	10pm S-T; 11pm F-S	8-May-02	1
18	Simmzy's	220 MB Blvd	11pm S-T; 12am F-S	22-Jan-03	1
19	Le Pan Quotidien	451 MB Blvd	7:30pm Daily	14-May-08	1
20	Shade Hotel	1221 N Valley Dr	11pm Daily	5-May-05	1
21	Petros	451 MB Blvd	11:30pm S-T; 12:30am F-S	13-Dec-06	2
22	Vacant	451 MB Blvd	10:30pm S-T; 11:30pm F-S	16-Jul-02	1
23	Sushi Ya Matsu	210 Aviation Blvd	11pm Daily	24-Jul-02	1
24	Vacant	1605 Sepulveda Blvd	10pm S-T; 12am F-S	5-Jul-11	1

# **EXHIBIT E**



---

CITY HALL      1400 HIGHLAND AVENUE      MANHATTAN BEACH, CALIFORNIA 90266-4795  
TELEPHONE (310) 545-5621      FAX (310) 545-5234      TDD (310) 546-3501

January 8, 1996

Tom Nathan  
Rock Bottom Saloon  
900 Manhattan Ave.  
Manhattan Beach, CA 90266

Dear Tom,

Per your recent telephone inquiry, we have reexamined the occupancy figures for your establishment. My December 20, 1995 letter erroneously assigned two additional persons to the first floor. They should have been added to the second floor, making the total occupancy for Layout #1 = 74 persons (dining only), and Layout #2 = 106 persons (dining and dancing). The first floor occupancy remains the same at 33 persons.

My apologies for the confusion.

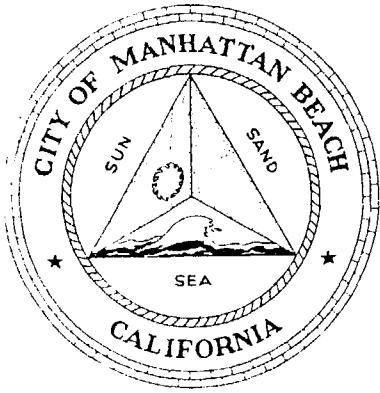
Sincerely,

S. Maxine Rhyne, Planning Administrator

xc:    Geoff Dolan, City Manager  
      Ted Mertens, Police Chief  
      Dennis Groat, Fire Chief  
      Sandra Massa-Lavitt, Interim Community Development Director  
      Carol Jacobson, Acting Building Official



# **EXHIBIT F**



COMMUNITY DEVELOPMENT DEPARTMENT - April 27, 1979  
CITY HALL - 1400 HIGHLAND AVENUE - MANHATTAN BEACH, CALIFORNIA - 90266

Mr. William Kaufmann  
3204 The Strand  
Manhattan Beach, CA 90266

Re: Silo Restaurant, 900 Manhattan Avenue  
Annual Class II Dance/Entertainment Permit

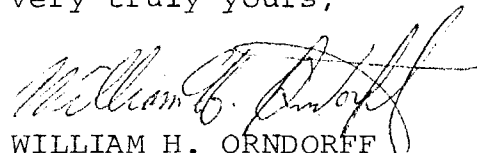
Dear Mr. Kaufmann:

Attached is a copy of your Annual Class II Dance/Entertainment Permit for the Silo Restaurant, 900 Manhattan Avenue, APPROVED with the following conditions:

1. Conditions Nos. 1 through 11, as contained in City Council Resolution No. 3555, adopted August 2, 1977, "...granting a Conditional Use Permit for the property located at 900 Manhattan Avenue". (Copy of said conditions attached.)
2. That exits shall be kept clear of all obstructions. No bar stools or chairs on the south side of bar.

This permit is renewable annually on March 1st.

Very truly yours,

  
WILLIAM H. ORNDORFF  
Planning Administrator

al  
attachment

21 Permit sub. to the following conditions:

- 22 1. Landscaping which has overgrown the public  
23 sidewalk area shall be trimmed and maintained  
24 in such a manner as to permit proper pedestrian  
25 passage.
- 26 2. Sand which erodes onto the public sidewalk  
27 shall be removed and the slope retained at the  
28 northwesterly corner of the lot.
- 29 3. The brick parkway area on Manhattan Avenue  
30 which has settled shall be adjusted to the  
31 grade of the sidewalk.

///

- 1 5. A minimum of two street trees shall be  
2 installed on the Manhattan Avenue frontage  
3 of the property in conformance with the  
4 street tree installation in the adjacent  
5 business district.
- 6 6. The hours of operation of the business  
7 shall be limited to 11:00 A.M. to 1:30  
8 A.M. on all days.
- 9 7. The noise level emanating across residential  
10 property lines shall be subject  
11 to the City's noise ordinance.
- 12 8. Entertainment shall be limited to four  
13 musicians.
- 14 9. Service of food and beverages shall be  
15 primarily by employee service to customers  
16 seated at tables.
- 17 10. Four off-street parking spaces shall be  
18 maintained at the rear of the subject  
19 property.
- 20 11. At any time in the future, the Board  
of Zoning Adjustment reserves the right  
to review the subject Conditional Use  
Permit for the purposes of revocation  
or modification in accordance with  
Section 10.3.2001 of the Municipal  
Code. Modification may consist of the  
following: limitation of hours, further  
limitation of total occupancy,  
requiring valet parking, elimination  
of entertainment or the establishment  
of any other condition or conditions  
deemed reasonable to mitigate or alleviate  
impacts to adjacent land uses.

# **EXHIBIT G**

CITY OF MANHATTAN BEACH

MEMO

TO: Joanne Ashley, Code Enforcement Officer  
FROM: Carl K. Newton, City Attorney  
SUBJECT: 900 Manhattan Avenue "Rock Bottom Inc."  
DATE: February 26, 1993

In the letter to you dated February 16, 1993 from Thomas J. Nathan of Rock Bottom Inc., it is alleged that an uncertainty exists surrounding the issue of whether a retail bar is permitted at the upstairs level of the subject property. Based upon my review of the Conditional Use Permit applications and approvals which have been granted to the owners of the businesses on this property, it is my position that no such uncertainty exist. There has never been an approval by the city in any proceeding that I'm aware of which granted permission to pursue a retail bar operation in the upstairs area of the restaurant.

Review of the various approval documents related to this property reveals the following:

1. Resolution No. 74-2 of the Board of Zoning Adjustment adopted on January 8, 1974, addressed a requested Conditional Use Permit for the purpose of selling alcoholic beverages on an on-sale general basis in conjunction with food consumption in a bona fide restaurant. The application was approved with conditions pertinent to this issue as follows: Condition number one provided service of beer, wine and alcoholic beverages shall be in conjunction with the operation of a bona fide restaurant, and shall be during the hours of operation of the restaurant; condition number three provided no cocktail bar is to be permitted; service of beer, wine and cocktails is to be performed by employees from a service bar to customers at dinner tables or cocktail tables.
2. Resolution No. 74-13 of the Board of Zoning Adjustment adopted on June 25, 1974 addressed a request to expand the lower level of the existing structure for the purpose of installing a cocktail lounge. Among the findings was finding number one which provided applicant presently serves alcoholic beverages in a restaurant subject to a Condition Use Permit which prohibits a cocktail bar. The request was approved by the board subject to condition number one which provided service of beer, wine and alcoholic beverages shall be in conjunction with the operation of a bona fide restaurant and shall be during

the hour of operation of the restuarant.

3. City Council Resolution No. 3555 was adopted on August 2, 1977 following an appeal of a Board of Zoning Adjustment decision relating to the subject property. The city council resolution granted a Conditional Use Permit for the property and incorporated the findings of the Board of Zoning Adjustment Resolution No. 77-27 which was adopted on June 14, 1977. Board of Zoning Adjustment Resolution No. 77-27 contained the findings including finding no. 4 which recited that the subject business has operated as a restaurant with a small cocktail lounge for the past 4 years. Finding no. 6 stated the granting of the Conditional Use Permit would lead to the creation of a 775-square-foot lounge area in the area below the exisiting restaurant.

City Council Resolution No. 3555 after incorporating the Board of Zoning Adjustment Resolution 77-27 noted in section 2 that the request applied for was a permit to expand an existing lounge and waiting area in an existing area restaurant. In section 3 of the city council resolution, it approved the findings of the Board of Zoning Adjustment and granted the Conditonal Use Permit subject to certain conditions.

It is elementary that a Conditional Use Permit can never be construed as granting more or some different permitted use beyond that which was specifically requested by the applicant. Reviewing all of the approvals noted above, there has never been an application for or approval of a retail bar other than in the lower portion of the building where the restuarant business was being pursued.

Accordingly, it is my conclusion that the premises occupied by the "Rock Bottom Inc." does not have a permit for operating a retail bar other than on the first floor or lower level of the building. Any continued operation of the business wherein a retail bar is conducted on the second floor of the building would be a violation of the Conditional Use Permit in effect, and would make that Conditional Use Permit subject to revocation in accordance with the provisions of the zoning ordinance.

CKN\gw

**900 MANHATTAN Ave. (ROCKBOTTOM SALOON)  
USE PERMIT HISTORY (1973 - 1994)**

✓ **June 12, 1973  
Reso. 73-21**

Board of Zoning Adjustment grants original Use Permit to Silo Inc. for a "bonafide" **restaurant with incidental beer and wine** service.

Conditions include limitation of hours of operation between 11:00 a.m. - 10:30 p.m., seven days a week. Live entertainment and cocktail bar specifically prohibited and service of alcoholic beverages to be in conjunction with operation of a "bonafide restaurant" and served through employees only from a service bar.

**January 8, 1974  
74-2**

Board of Zoning Adjustment grants permission to Silo restaurant to **Reso.** expand sale of alcoholic beverages from beer and wine to **full on-sale liquor license**, and **expand operating hours** to 11:00 a.m. to 11:30 p.m. Sunday through Thursday, 11:00 a.m. to **1:00 a.m.**, Friday and Saturday.

Conditions specifically prohibit live entertainment and a cocktail bar. Table service of alcohol only permitted by employees from a service bar.

✓ **June 25, 1974  
to Reso. 74-13**

Board of Zoning Adjustment grants permission Silo Restaurant to install a **cocktail lounge** by expanding the ground floor, and **expand hours** of operation to **1:00 a.m.** closing time, seven days a week.

Conditions specifically prohibit live entertainment. Service of alcoholic beverages to be in conjunction with operation of a "bonafide" restaurant.

✓ **April 8, 1975  
Reso. ~~74-13~~  
75-12**

Board of Zoning Adjustment grants permission to Silo Restaurant to provide **live entertainment**.

✓ **August 2, 1977  
Reso. 3555**

City Council grants Use Permit Amendment to **expand cocktail lounge** (ground floor) to 775 square feet, **expand evening closing** from 1:00 a.m. to **1:30 a.m.**

Conditions include limitation to **four musicians**.

**April 27, 1979**

Director of Community Development issues **Class II Dance/Entertainment Permit** to Silo Restaurant. Granted permission to conduct "cafe entertainment" (food and beverage service and entertainment), including live bands or pre-recorded music or other live performers. (Dancing as a form of entertainment was permitted only under a Class I permit.)

Reso BZA 77-27

14 Jun 1977

✓ **August 11, 1993**      Planning Commission grants Use Permit Amendment (Nathan/Rockbottom  
**Reso. 93-28**              Saloon), **denying dancing**, and **approving full retail bar** upstairs and  
expansion of **morning hours** of operation.

✓ **November 16, 1993**      City Council **denies "with prejudice" all aspects of Amendment**  
**Reso. 5038**              **Application** submitted 3/18/93 (Nathan /Rockbottom Saloon), and  
modifying prior decision of Planning Commission, PC 93-28. This action  
effectively gives applicant three choices: 1) ~~rely~~ on existing 1977 Use  
Permit entitlement (Reso. 3555), as interpreted by City; 2) file a second  
Use Permit Amendment which is substantively different from 3/18/93  
application, or 3) wait mandatory one year from 11/16/93 to re-file same  
request.

✓ **April 5, 1994**              City Council directs Planning Commission to conduct public hearing to  
**Reso 5155**                  consider whether to **revoke or modify** the terms and conditions of  
4 Apr 1995                  governing Use Permit, CC Reso. 3555 (1977 Council approval).

Reso 5117      7 Sep 1994  
Reso 94-16      8 Jun 1994

Cited in  
Reso 5155

rl: C:\cup\rockbtm\approvals



# **EXHIBIT H**

RESOLUTION NO. PC 93-28

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DENYING A PORTION OF A USE PERMIT AMENDMENT APPLICATION PERTAINING TO DANCING, APPROVING PORTIONS OF A USE PERMIT AMENDMENT, INCLUDING CONVERSION OF AN UPSTAIRS SERVICE BAR TO A FULL SERVICE BAR, AND EXPANSION OF MORNING OPERATING HOURS FOR AN EXISTING RESTAURANT/BAR, LOCATED AT 900 MANHATTAN AVENUE (NATHAN/ROCK BOTTOM INC.)

WHEREAS, the Planning Commission of the CITY OF MANHATTAN BEACH, conducted a public hearing pursuant to applicable law to consider an application for Use Permit Amendment, for the property legally described as Lot, 6 Block 69, Manhattan Beach Division #2; and,

WHEREAS, the applicant for said Use Permit Amendment is Thomas Nathan, representing Rock Bottom Inc., property tenant; and,

WHEREAS, a public hearing was advertised pursuant to applicable law, testimony was invited and received both for and against the subject project; and,

WHEREAS, an Initial Study and Negative Declaration have been prepared in compliance with the California Environmental Quality Act (CEQA) and the City of Manhattan Beach Guidelines, which identify significant effects, but revisions have been made to the project, agreed by the applicant, to mitigate effects to levels of insignificance; and therefore, it has been determined that there is no substantial evidence that a revised project may have a significant effect on the environment. The Planning Commission hereby affirms the findings of said Initial Study and approves the Negative Declaration; and,

WHEREAS, the Planning Commission finds that, based upon the Initial Study and hearing record, 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.

WHEREAS, the following findings were made with respect to this application:

1. The applicant is requesting an Amendment to an existing Use Permit, Resolution No. 3555, which governs the restaurant/bar use on this site. The applicant is asking for three modifications:
  - A) Addition of dancing to existing live entertainment.
  - B) Expansion of an existing service bar on the second level to full service retail bar.
  - C) Expansion of the morning opening of business hour on weekend only (Saturday and Sunday) from 11:00 to 9:00 a.m.
2. The site has historically been utilized under prior land use entitlements primarily as a restaurant, with incidental cocktail lounge and bar with live entertainment. Prior to Resolution 3555, referenced above and adopted by the City Council on August 2, 1977, the site was approved for Use Permit Amendments by the Board of Zoning Adjustment through Resolutions BZA 74-13 and 75-12. In Resolution BZA 74-13 the applicant was allowed to expand the lower level for the purpose of installing a cocktail lounge and expand the hours of operation to 11:00 a.m. to 1:00 a.m. In Resolution BZA 75-12, the applicant was allowed to have live entertainment in the form of four (4) musicians, permitted seven days a week, until closing time.

3. The property is located in Area District III and is zoned CD, Downtown Commercial, as are the properties to the north, south and west. The properties to the east are zoned RM, Residential Medium Density. The property is designated CD (Downtown Commercial) in the General Plan. There are residential developments located nearby across Bayview Drive and on the south side of 9th Street beyond the CD District.
4. Since the opening of the subject business, the owner has utilized the upstairs area of the structure for live entertainment. There is concern that this change in the location of the live entertainment area may be a violation of the intent of Resolution 3555, approved by the City Council of Manhattan Beach. The purpose of the subject Amendment is to clarify the scope and conditions contained in Resolution 3555 with modification to address the applicant's business objective to offer a fuller range of entertainment.
5. A substantial number of phone calls and letters of opposition have been received by the Police and Community Development Department from the neighbors of the restaurant pertaining to the volume of the live entertainment and nuisances created by the service of alcohol.
6. Upon being informed that several noise complaints were received by the City, on or around February 1, 1993, the applicant has sound attenuated the building on the upper level as follows: "Lexan" plastic panels were placed on the interior of the existing stained glass windows on the south side of the building; burlap wrapped foam rubber material was placed on the ceiling, and openings near the rear exit passageway have been sealed. Given these improvements, it would be appropriate to permit musical entertainment to be conducted on the upper level of the building, provided the operation complies with the City's Noise Ordinance.
7. Subsequent to the added sound attenuation improvements, a Noise Study was prepared for the applicant by the acoustical consulting firm Davy and Associates, dated June 2, 1993, which concluded that the existing building complies with applicable noise level requirements of the effective Municipal Noise Ordinance 1875, adopted by the City Council on May 4, 1993.

However, upon receiving testimony in the public hearing, the Planning Commission determined that an expanded Noise Study is necessary to provide sufficient information to determine compliance with the Noise Ordinance as described in condition #24. Furthermore, additional improvements recommended in the June 2, 1993 Noise Study are included as conditions to mitigate noise impacts, including sealing existing east facing door(s) and limitation of a rear door at the south-east corner of the building for use as an emergency exit only.

8. The business is not in strict compliance with condition number 10 of referenced Resolution 3555, which requires 4 parking spaces be provided. The site currently has three spaces and one substandard compact space. It is desirable to clarify and modify this condition, and decrease the on-site parking requirement to three full sized spaces. Under the current Code the subject business exceeds the number of required parking spaces, and additional parking is available through curbside parking on Manhattan Avenue, 9th Street and in nearby City owned parking lots located on Bayview Drive between 9th and 10th Streets.

RESOLUTION NO. PC 93-28  
(page 3 of 6)

9. The introduction of dancing constitutes an expansion of use consistent with activities more commonly associated with a nightclub. The requested amendment to the subject Use Permit including dancing would therefore constitute a significant change in the character of the subject site as historically approved, from a restaurant with incidental bar and entertainment to a restaurant/nightclub.
10. The subject change in use to a nightclub with dancing would introduce an incompatible and undesirable land use to the existing surrounding neighborhood, the characteristics of which would be difficult to mitigate to less than significant levels. The potential nuisances include noise, parking and alcohol related problems. Therefore, the proposed use expansion would be potentially detrimental to the public health, safety, or welfare of persons residing in the adjacent neighborhood.
11. The proposed expansion of hours in the a.m. to allow a 9:00 opening for business, Saturday and Sunday, is consistent with hours of nearby restaurants, and is not expected to negatively impact the surrounding neighborhood. Restriction of the closing hour from 1:30 a.m. as currently approved to 1:00 a.m. on weekends will potentially mitigate nuisance conditions emanating from the business and is consistent both with recent Use Permit approvals for similar businesses and Municipal Code 4.20.090, pertaining to hours of operation applicable for "Group Entertainment" permits.
12. The project is consistent with the Land Use Element of the General Plan and Plan of the Local Coastal Program approved for **Manhattan Beach**.
13. The project shall be in compliance with the provisions of the Manhattan Beach Municipal Code.
14. This Resolution contains all appropriate conditions of prior Resolutions and is the governing Use Permit, thereby replacing past approvals, including City Council 3555, and BZA Resolutions 77-27, 75-12, and 74-13.

**NOW, THEREFORE, BE IT RESOLVED** that based on the above findings, the Planning Commission of the **City of Manhattan Beach** hereby **DENIES** the portion of the subject Use Permit Amendment pertaining to the addition of dancing and **APPROVES** the requested expansion in morning hours of operation on the weekend and expansion of the upstairs service bar to a full service retail bar, subject to the conditions enumerated below.

1. Service of alcohol shall be in conjunction with and incidental to the sale of food in a bona fide restaurant.
2. The service of food and beverages shall be primarily by employees served to customers seated at tables.
3. Three parking spaces for the use of patrons shall be maintained permanently on-site at the rear of the subject property. These parking spaces shall not be blocked or utilized in such a way to prevent parking.
4. The applicant shall maintain the public sidewalk adjacent to the business, and shall remove all sand, if any, which has sloughed from the subject private property onto the sidewalk near the northwesterly corner of the lot.

RESOLUTION NO. PC 93-28  
(page 4 of 6)

5. A clean up patrol program shall be provided and monitored by the restaurant manager to eliminate trash and litter generated from the restaurant patrons in the nearby residential area and public right-of-way adjacent to the south, east, and west of the subject site. The patrol should take place at least once per day.
6. The noise level emanating from the site shall at all times comply with the provisions of the City's Noise Ordinance.
7. Entertainment shall be limited to four musicians, and "deejays" shall be strictly prohibited, but electronically produced audio programming shall be permitted as "background music".
8. If additional refuse or litter is generated in public areas as the result of the restaurant operation, the applicant shall bear the cost of the installation and service of City-owned decorative refuse containers in the sidewalk area.
9. The applicant/lessee shall obtain and maintain a valid Class I Group Entertainment Permit from the Director of Community Development prior to the provision of any live music.

FIRE DEPARTMENT

10. All exits shall be kept clear and unobstructed including access aisles leading to the exits, subject to the approval of the Fire Marshal.

COMMUNITY DEVELOPMENT DEPARTMENT

11. The doors leading from the upstairs to the east (toward the parking lot and Bayview Drive) shall be retro-fitted with adjustable door seals and door bottoms as recommended in a Noise Study prepared by the firm Davy and Associates, dated June 2, 1993.
12. All entrance and exit doors shall be made to be self-closing.
13. All doors and windows shall be closed during any live entertainment performance.
14. The restrooms shall be made available to patrons during all hours of operation of the restaurant.
15. Dancing shall be prohibited.
16. The hours of operation of the subject use shall be limited to:

Sunday	9:00 a.m. to 12:00 a.m.
Monday through Thursday	11:00 a.m. to 12:00 a.m.
Friday	11:00 a.m. to 1:00 a.m.
Saturday	9:00 am to 1:00 am

The hours of operation shall be permanently mounted and clearly displayed for public view. The location shall be subject to the approval of the Community Development Department.

17. The restaurant shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.

RESOLUTION NO. PC 93-28  
(page 5 of 6)

18. The business proprietor shall provide adequate management and/or supervisory techniques to prevent loitering, unruliness, and boisterous activities of patrons outside the business and in the immediate area.
19. A security person shall be hired to monitor the parking lot and the public sidewalk area adjacent to 900 Manhattan Avenue; and prevent possible nuisances by patrons of the subject business. This security shall be provided on Fridays and Saturdays from 10 p.m. till 2 a.m..
20. Adequate provisions for refuse storage shall be maintained in accordance with the Municipal Code subject to the approval of the Public Service Department.
21. The restaurant shall remain in compliance with all Fire and Building occupancy requirements at all times.
22. The business owner shall work with the Building Official to resolve any matters relating to conformance with the Uniform Building Code and disabled access regulations.

General

23. This Resolution shall become effective on September 10, 1993, unless appealed to the City Council within the required 30 day appeal period.
24. Three months following the effective date of this Resolution, a fully noticed public hearing shall be conducted by the Planning Commission for the purpose of reviewing the subject Use Permit for compliance with all conditions. The applicant shall bear one-half of the cost associated with processing said hearing. Prior to the conduct of said hearing the applicant shall submit to the Community Development Department a supplemental Noise Study which shall include additional live band noise measurements taken on at least two dates both at 10:00 p.m. and 12:00 midnight.
25. At any time in the future, the Planning Commission reserves the right to review the subject Conditional Use Permit for the purposes of revocation or modification in accordance with Section 10.104.030 of the Municipal Code. Modification may consist of the following, but is not necessarily limited to: limitation of hours, further limitation of total occupancy, requirement for valet parking, elimination of entertainment or the establishment of any other condition or conditions deemed reasonable to mitigate or alleviate impacts to adjacent or nearby land uses.
26. This Use Permit shall lapse one-year after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
27. 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.
28. 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, other than one by the Applicant, challenging the approval of this project, or any action or failure to act by the City relating to the environmental review process pursuant to the California Environmental Quality Act. In the event such a legal action is filed

RESOLUTION NO. PC 93-28  
(page 6 of 6)

against the City, the City shall estimate its expenses for the litigation and Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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 11, 1993 and that said Resolution was adopted by the following votes:

AYES: Adamek, Blanton, Fahey,  
Kaprielian and Chairman Hall

NOES: None

ABSTAIN: None

ABSENT: None

*Byron L. Woosley*  
BYRON L. WOOSLEY *by me*  
Secretary to the Planning Commission

*Sylvia Root*  
Sylvia Root, *by me*  
Recording Secretary (Acting)

C:\wp51\rosie\cup\rockbtm\res