

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

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 reliance on the entitlements conferred by Resolution No. 5155, 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 videotapes.

**Section 7.** The record of the hearing indicates that on one or more occasions the 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 #13-3570 and the City Prosecutor's log.
- c. Violated Resolution No. 5155 Condition No. 5 and adversely impacted persons in the vicinity by generating excessive noise in violation of the City's noise ordinance.
- d. Operated in violation of Resolution No. 5155 Condition No. 11 by failing to provide adequate management to prevent loitering, unruliness, and boisterous activities of patrons outside the business or in the immediate area.
- e. Operated in violation of Condition No. 6 of Resolution No. 5155 by holding special events without obtaining a Class II Entertainment Permit.

**Section 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.
- f. The 900 Club has violated the Municipal Code and the Use Permit conditions of approval.
- g. 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. 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.

1           **Section 10.** On May 14, 2014, the Planning Commission provided an opportunity for all  
2 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.

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

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

|                               |                    |
|-------------------------------|--------------------|
| 6           Monday - Thursday | 11:00am – midnight |
| 7           Friday            | 11:00am – 1:00am   |
| 8           Saturday          | 9:00am – 1:00am    |
| 9           Sunday            | 9:00am – midnight  |

10           At closing time, all areas (inside and outside) of the business must be vacated. All  
11 music (house system and bands) shall be turned off, and no sales, service or  
12 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.

13           2. The service of alcohol shall occur in conjunction with food service as a "bona fide eating  
14 place" type of alcohol license (Type 47) from the State of California shall be maintained.

15           3. Management shall provide a third party security staff person, who is licensed, bonded  
16 and certified by the State of California within 30 days after this approval, who shall be  
17 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  
18 the following: noise, use of the back door, litter, access, windows and doors being  
closed, and any other nuisances.

19           4. The back door and storage/utility room on Bayview Drive shall remain closed and not  
20 be used after 10:00 pm, except the back door may be used for trash removal or  
disabled or emergency access only. Additionally, bands shall be allowed to use the  
21 back door for the loading and unloading of amplified sound equipment and shall vacate  
the site by closing time. The back door keypad access shall be maintained and only be  
22 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 or the storage/utility room. Management shall contact  
the Police Department the first of every month to advise of key access code changes  
and any other changes.

23           5. Patrons must use Manhattan Avenue for access to the 900 Club after 10pm except for  
24 the purpose of disabled or emergency access. The entrance on Bayview Drive for the  
900 Club may be used by patrons before 10pm and the door shall remain closed when  
25 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, 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. 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. Three parking spaces shall be maintained on-site at the rear of the building.
12. Required access and exits shall remain unobstructed at all times in compliance with Fire and Building requirements.
13. The occupancy limits stated below shall not be exceeded and are required to be posted on-site at all times:
  - Red Room (downstairs) – 31
  - 900 Club (upstairs) – 92
14. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.
15. The following noise mitigation measures shall be installed within 45 days and maintained at all times:
  - a. Tempered glass panels installed over each upstairs stained glass window along the south wall.
  - b. A separate tempered glass panel installed over the inside windows upstairs along the south rear hallway.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

- c. Double pane windows on Manhattan Avenue and 9<sup>th</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 shall be installed on the double pane windows adjacent to Manhattan Avenue and 9<sup>th</sup> Street on the second floor.

16. 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.

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

**Procedural**

18. 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.

19. 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: If within 45 days of this final approval the Use Permit is not complied with, the City may initiate revocation or modification proceedings. A violation of any of the conditions may result in further proceedings to consider revocation or modification of the Use Permit pursuant to MBMC Section 10.104.030.

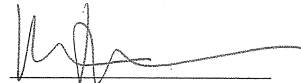
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of May 14, 2014 and that said Resolution was adopted by the following vote:

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

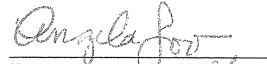
**NOES:** None

**ABSTAIN:** Andreani

**ABSENT:** None



**RICHARD THOMPSON**  
Secretary to the Planning Commission



**Rosemary Lackow**  
Recording Secretary

