



Agenda Item #: 07/0102.7

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Tell and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Laurie B. Jester, Senior Planner

**DATE:** January 2, 2007

**SUBJECT:** Consideration of Planning Commission Approval of an Amendment to a Master Use Permit to Extend the Hours of Operation by One Hour, and Allow Off-site Wine Sales and Associated Tastings, and Approval for Curtains for the Outdoor Dining Patio, at Petros Restaurant Located at 451 Manhattan Beach Boulevard, Metlox Development

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### RECOMMENDATION:

Staff recommends that the City Council **RECEIVE AND FILE** the Planning Commissions approval of the Amendment to the Master Use Permit and the approval of the curtains.

### FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

### BACKGROUND:

The Metlox project, which includes a two-story subterranean public parking structure accommodating approximately 460 cars with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area, was approved by the City Council with a Master Use Permit in July 2002. The project opened in December 2005 and includes two restaurants, one on each side of the central public Town Square, including Petros Greek Cuisine and Lounge.

### DISCUSSION:

On December 13, 2006, the Planning Commission voted (5-0) adopting Resolution No. PC 06-20, approving the Amendment to the Master Use Permit to extend the hours of operation on Sunday-Thursday from 11:00 PM to 12:00 AM (midnight) and on Friday and Saturday from 12:00 AM (midnight) to 1:00 AM. and to allow sales of wine for off-site consumption from the restaurant and associated tastings. Books of wine selections will be displayed in the adjacent new retail Greek Specialty Store, currently occupied by Petros Vintage Boutique, but no wine will be sold from the Store. There was only one speaker regarding the request, who indicated that he did not have concerns with the subject application. One Commissioner expressed concerns that he had heard from a resident that the additional hour of operation could create additional noise in

the late night as some employees park in the adjacent residential area, however it was agreed that this was an issue that was already in the process of being addressed with the Downtown comprehensively. Overall the Commission felt that the additional hour of operation and the off-site sale of specialty Greek wine would be an enhancement to the restaurant and the Metlox site.

The Commission also approved (5-0 vote) the addition of curtains around the outdoor dining patio. Staff expressed concern that the addition of the curtains could impact the interactive relationship of the restaurant patio with the Town Square and create more of an enclosed area. The dynamics, active vitality, and energy of both spaces could be compromised with the curtains. Additionally, other tenants may request similar enclosures in the future. The applicant indicated that the curtains were requested by customers for protection from cold, rain and fog, and the architect presented drawings and material samples of the curtains to depict the integration with the design of the buildings and the restaurant. The material is a heavy canvas type of material with a sandy color and is only on the front of the patio, not the two ends.

The Commission indicated support for the curtains, however they requested that the applicant and his architect work with staff to examine alternative materials, although if alternatives are not viable then the proposal would be acceptable. The Commission felt that a more translucent or transparent fabric, but not plastic, would be more appropriate and aesthetic so that the patio does not become enclosed and segregated from the Town Square. The curtains could only be closed at night after 6:30 PM or sunset, whichever is later and only during cold (65 degrees or lower) weather. Also if there are events or activity in the Town Square then the curtains would need to remain open. The north and south ends of the patio would need to remain open with no curtains and the patio could not be closed off exclusively for private parties unless the prior criteria is met.

Staff will work with Petros to ensure that the restaurant complies with the Planning Commission decision. If staff is not able to achieve compliance, then we will return to the Planning Commission for further direction.

**ALTERNATIVES:**

The alternative to the staff recommendation includes **REMOVE** this item from the Consent Calendar, **SET** the item for **PUBLIC HEARING**.

Attachments: A. Approved Planning Commission Resolution No. 06-20  
B. Planning Commission Minutes (draft), Staff Report and attachments-  
December 13, 2006

cc: Petros Benekos- Petros Greek Cuisine and Lounge  
Jon Tolkin- Tolkin Group  
Glenn Loucks- Tolkin Group

9

RESOLUTION NO. PC 06-20

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING AN AMENDMENT TO A MASTER USE PERMIT FOR MODIFICATIONS TO THE PREVIOUSLY APPROVED HOURS OF OPERATION AND TO ALLOW SALES OF WINE FOR OFF-SITE CONSUMPTION AT PETROS GREEK RESTAURANT, FOR AN ASSOCIATED RETAIL STORE, METLOX SITE, 451 MANHATTAN BEACH BOULEVARD. (PETROS BENEKOS, PETROS GREEK CUISINE AND LOUNGE)

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

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

- A. Petros Benekos, Petros Greek Cuisine and Lounge, is seeking approval of an Amendment to a Master Use Permit, to allow modifications to the previously approved hours of operation and to allow alcohol sales for off-site consumption at Petros Restaurant, 451 Manhattan Beach Boulevard, Metlox site, in the City of Manhattan Beach.
- B. In accordance with the Master Use Permit approval an Amendment to the existing Master Use Permit approval is required for the project.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. The California Coastal Commission does not regulate alcohol sales and hours and therefore their review of the project is not required to be processed.
- D. The applicant is Petros Benekos, Petros Greek Cuisine and Lounge and the property owner is the City of Manhattan Beach.
- E. The following is a summary of some of the key milestones for the Metlox site:
  - 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
  - 1997/98- The City purchased the Metlox property to control development and Master Plan the site
  - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
  - December 1998- The City selected the Tolkin Group as a development partner

April 2001- The City Council certified the EIR  
April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease  
July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council  
November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit  
February 2003- Groundbreaking for the Metlox parking structure  
January 2004- Grand opening of public parking structure with 460 parking spaces  
April 2004- Shade Hotel construction commenced  
September 2004- Construction of the Metlox commercial buildings started  
December 2005- Ribbon cutting and grand opening for the Metlox Center

- F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of December 13, 2006. The public hearing was advertised pursuant to applicable law and testimony was invited and received.
- G. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. There have been no substantial changes to the project, the surrounding area or environment, and the facts associated with the project have not substantially changed from those evaluated in the certified EIR from an environmental impact viewpoint. Therefore, the existing certified EIR is a valid environmental document that adequately evaluates the environmental impacts of the project in accordance with the requirements of CEQA and the project can rely upon this document for conformance with the requirements of CEQA. The EIR includes Mitigation Measures and a Mitigation Monitoring and Reporting Program in accordance with the requirements of CEQA. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, the public Library, and on the City's website.
- H. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the property to the north is zoned Public and Semipublic, and the property to the east is zoned Open Space.
- I. The General Plan designation for the property is Downtown Commercial.
- J. The proposed project is a modification of the previously approved conditions to amend the Master Use Permit for the Metlox project as follows:
  - a. Modification of the previously hours of operation to extend the hours on Sunday-Thursday from 11:00 PM to 12:00 AM (midnight) and Friday and Saturday from 12:00 AM (midnight) to 1:00 AM. (Condition No. 29, City Council Resolution No. 5770)

- b. Allow sales of wine for off-site consumption from the restaurant and associated tastings. Books of wine selections will be displayed in the adjacent new retail Greek Specialty Store, currently occupied by Petros Vintage Boutique. (Condition No. 38, City Council Resolution No. 5770)
- K. The primary use and purpose of Petros Restaurant is and will continue to be a restaurant. The sale of alcohol for off-site consumption and on-site tastings will be an accessory use.
- L. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- M. This Resolution, upon its effectiveness, constitutes the Amendment to the Master Use Permit for the subject property. This Resolution only amends Conditions No's 29 and 38 of Resolution No. 5770, all other conditions remain effective and in full force.
- N. Based upon State law, and MBLCP Section A.84.050, relating to the Amendment to the Master Use Permit application for the proposed project, the following findings are hereby made:
  - 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 since, the proposed amendments to the 'use permit' for Petros Restaurant are consistent with the Commercial Downtown designation. This area is specifically designated for commercial activity and services for residents and out-of-town visitors. Several other business operations in the area already engage in similar uses. The project provides a full range of services needed by residents of, and visitors to, the city and region. The project will strengthen the city's economic base, but also protect small businesses that serve city residents. The project protects surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts.
  - 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 since, the proposed amended 'use permit' of this business property is consistent with the General Plan for the Commercial Downtown designation, because it is merely the granting of additional privileges to an already approved use that will result in no fundamental change of that use. Amending the 'use permit' will have no environmental impact and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the restaurant. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the city. Additionally, the project is consistent with the following General Plan Goals and Policies:

**GOALS AND POLICIES: LAND USE**

**Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.**

Policy LU-6.1: Support and encourage small businesses throughout the City.

Policy LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

**Goal LU-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.**

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 since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy. The proposed amended 'use permit' for Petros Restaurant is consistent with the already approved primary use. The new use will comply with the provisions and conditions of this title.
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. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the project will all be complied with. Conditions to conform to applicable Code standards will apply. Because the proposed amended use permit will not alter the fundamental use, purpose or character of the restaurant, and because there will not be any significant change in occupancy or intensification of the property, the proposed amended use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.

**SECTION 2.** The Planning Commission of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit Amendment subject to the following conditions.

***General Conditions***

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the Planning Commission on December 13, 2006, subject to any special conditions set forth below. The layout of the retail specialty Greek food store and any display area or other modifications to the

restaurant is subject to further review and approval by the Director of Community Development. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

**Land Use**

(This condition replaces Condition No. 29- City Council Resolution No. 5770)

2. The hours of operation for the site shall be permitted as follows:
  - a. Restaurant, food service, retail and personal service: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, with the exception of the restaurant located on the east side of the Town Square, Suite B-110, Petros Greek Restaurant, which is allowed up to 6:00 am to 12:00 am (mid-night) Sunday through Thursday, and 6:00 am to 1:00 am Friday and Saturday.
  - b. Offices: Up to 24 hours
  - c. Town Square and Public Areas: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, seasonal, depending on weather.
3. The specialty retail Greek store shall not keep, display or sell prepared food-to-go, such as, and including but not limited to, sandwiches, or salads. The emphasis of the store shall be on pre-packaged specialty food products and cooking items with accessory specialty wine. The wine sales shall be a secondary use to the primary retail use.

**Alcohol**

(These conditions replace Condition No. 38- City Council Resolution No. 5770, and condition No. 3-Planning Commission Resolution No. PC 05-08)

4. The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation.
5. The sale of specialty wine for off-site consumption shall be limited to Petros Greek Restaurant, Suite B-110. Off-site sales shall be an accessory use to the primary restaurant use and shall be in conjunction with the adjacent associated retail sales of pre-packaged food for off-site consumption. Sales of wine for off-site consumption may not occur at the restaurant if there is no associated retail shop.
6. The specialty retail Greek store shall not keep or display alcohol. Books or other visual displays may be used to show photographs and descriptions of the alcohol for sale at the restaurant. The wine sales shall be a secondary use to the primary retail use.
7. Display of alcohol at the restaurant that is for sale in the retail shop shall be limited to the bar area. All displays shall be maintained so that alcohol is not directly accessible to the customer.

8. Tastings of alcohol for sale in the retail store may occur at the restaurant, however the primary use of the restaurant shall remain a restaurant and food shall be available to customers at all times during tastings.
9. In the event that the business known as Petros Greek restaurant and the retail specialty Greek store should vacate the premises, the tenant spaces may be occupied by another similar use, if upon its review, the Department of Community Development determines that the replacement use has the same use characteristics as Petros Greek restaurant and the retail specialty Greek store, including type of service provided, and peak hours of activity. The intent of this condition is to ensure that any replacement retail tenant with wine sales would be a similar use.
10. The property owner shall obtain approval from the State Department of Alcoholic Beverage Control and Los Angeles County Health Department, as required, and shall comply with all related conditions of approval.
11. No exterior sign modification and/or additions advertising wine tasting is permitted.
12. The Hotel may provide full liquor service throughout the Hotel, including self-service in room "mini-bars", and a portable bar for special events. The service of alcohol at the Hotel shall be in conjunction with food. The hours of food service, and the associated alcohol service, shall be consistent with the project description, which is generally breakfast, evening appetizers and for special events. The Sale of alcoholic beverages for consumption off-premise is not approved with this Master Use Permit. This approval shall operate within all applicable State, County and City regulations governing the sale of alcohol prior to the start of business operations. Any violation of the regulations of the Department of Alcohol and Beverage Control as they pertain to the subject location, or of the City of Manhattan Beach, as they relate to the sale of alcohol, may result in the revocation and/or modification of the subject Master Use Permit.

***Procedural***

13. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.
14. Fish and Game. 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.
15. Lapse of Approval. The Master Use Permit Amendment shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
16. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this



Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.

17. Effective Date. Unless appealed to the City Council, the subject Master Use Permit Amendment shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
18. Review. All provisions of the Master Use Permit Amendment are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Master Use Permit Amendment for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
19. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
20. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
21. Legal Fees. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

**SECTION 3.** Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

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 **December 13, 2006**, and that said Resolution was adopted by the following vote:

**AYES:** Chairman Schlager, Bohner, Cohen, Lesser, Powell

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

  
\_\_\_\_\_  
**RICHARD THOMPSON**  
Secretary to the Planning Commission

  
\_\_\_\_\_  
Sarah Boeschen  
Recording Secretary

**CITY OF MANHATTAN BEACH**  
**[DRAFT] EXCERPTS OF MINUTES OF THE REGULAR MEETING OF**  
**THE PLANNING COMMISSION**  
**DECEMBER 13, 2006**

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on  
2 Wednesday, December 13, 2006, at 6:35p.m. in the City Council Chambers, City Hall, 1400  
3 Highland Avenue.

4  
5 **ROLL CALL**

6  
7 Chairman Schlager called the meeting to order.

8  
9 Members Present: Bohner, Cohen, Lesser, Powell, Chairman Schlager  
10 Members Absent: None  
11 Staff: Richard Thompson, Director of Community Development  
12 Laurie Jester, Senior Planner  
13 Sarah Boeschen, Recording Secretary  
14

15 **PUBLIC HEARINGS**

16  
17 **06/0726.1 AMENDMENT to a MASTER USE PERMIT to Extend the Hours of**  
18 **Operation by One Hour, and Allow Off-Site Wine Sales and Associated**  
19 **Tastings, at Petros Restaurant Located at 451 Manhattan Beach Boulevard,**  
20 **Metlox Development**

21  
22 Senior Planner Jester summarized the staff report. She indicated that the first two requests by the  
23 applicant are to extend the hours of operation for the restaurant by one hour and to allow off-site  
24 wine sales. She stated that the other restaurant in the Metlox development has similar hours of  
25 operation until 11:00 p.m. Sunday through Thursday and until midnight on Friday and Saturday.  
26 She said that the subject request is to allow Petros to operate until midnight during the week and  
27 1:00 a.m on Friday and Saturday nights. She indicated that the proposal was circulated to other  
28 City departments for comments, and the Police Department did not have concerns with the one  
29 additional hour or the sale of wine. She said that no interest has been expressed by the operators  
30 the Shade hotel or deli for increasing their hours of operation. She commented that Le Pain  
31 Quotidian has submitted an application to allow beer and wine on-site that has been incomplete  
32 since May 2006. She indicated that the Commissioners have been provided with a list of the  
33 restaurants in the downtown area and their hours of operation. She pointed out that no  
34 entertainment is proposed with the application. She indicated that staff would recommend  
35 approval of the additional hour of operation.  
36

37 Senior Planner Jester indicated that the applicant is also proposing sale of alcohol for offsite  
38 consumption. She said that the existing Petros Vintage clothing store near to the restaurant is  
39 proposed to be changed to a Greek specialty food store which would sell only prepackaged items.  
40 She indicated that they would like to have the ability to sell Greek specialty wines along with

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1 food items. She stated that the Alcoholic Beverage Control board has indicated that the sale of  
2 wine could come under the applicant's existing alcohol license if the sales were conducted out of  
3 the restaurant, and the proposal is to have a list of wines at the store that would be available for  
4 purchase at the restaurant. She indicated that customers would have the ability to have a tasting  
5 of the wine at the restaurant before they purchased a bottle. She indicated that the other City  
6 departments did not have a concern the proposal, and staff is also recommending approval of off  
7 site sales.

8  
9 In response to a question from Commissioner Lesser, Senior Planner Jester said a notice was sent  
10 to all of the properties within a 500 foot radius, and staff has received no comments regarding the  
11 proposed increase in hours. She said that there have been complaints regarding the center and  
12 the valet service in front of the Shade Hotel, but not specifically as to Petros restaurant. She  
13 commented that the hotel has made changes to address the issue of noise and to prevent groups of  
14 people gathering on Valley/Ardmore.

15  
16 Commissioner Lesser said that a resident has expressed a concern to him regarding the increase  
17 in hours. He said that the concern is that workers from restaurants in the downtown area park in  
18 the adjacent neighborhoods to the east of the Metlox development and make noise as they return  
19 to their cars after work, which would extend to later hours if the restaurants remain open later.  
20 He asked about a condition being imposed requiring employees to park on the second level of the  
21 parking structure.

22  
23 Senior Planner Jester indicated that there currently are conditions of approval on the Metlox  
24 project requiring the employees to park on site and not on the adjacent public streets. She said  
25 that staff has met with the Downtown Business Association several times to address the concern,  
26 and a downtown parking study is currently ongoing to consider different options to prevent  
27 employees from parking in the residential areas.

28  
29 Director Thompson commented that there is a need to provide more parking options for some of  
30 the lower wage and part time employees.

31  
32 Commissioner Bohner commented that there is a condition that employees of the Metlox  
33 development park in the structure, and it would seem that preventing employees from parking on  
34 the adjacent streets is an enforcement issue.

35  
36 Director Thompson commented that the lower wage employees for many of the downtown  
37 businesses park in the adjacent neighborhoods where they are able to find free parking. He said  
38 that there is a process underway to address the parking problem in the downtown area; however,  
39 the subject application is probably not the opportunity to attempt to solve the issue. He said that  
40 there is a comprehensive effort underway to study the parking issue for the entire downtown area.

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1  
2 Commissioner Cohen asked whether it had been proposed to offer employees a discount by  
3 employers.

4  
5 Senior Planner Jester pointed out that there already is a very discounted rate for employee  
6 parking; however, there is not a great economic incentive for the lower wage part time employees  
7 to purchase a permit.

8  
9 Commissioner Powell commented that he is in the noticing area of the property on the Strand  
10 previously referenced by **Mr. Clark** and **Ms. Fisk**, and he felt he should not participate in any  
11 discussion in the interest of fairness.

12  
13 In response to a question from Commissioner Powell, Senior Planner Jester commented that the  
14 Sepulveda Wine Company is a retail store that applied to have wine tastings at their store. She  
15 said that the subject proposal is for the ability to have tastings at a restaurant where people are  
16 currently allowed to have alcohol with their food. She pointed out that Condition 8 requires that  
17 the primary use shall remain as a restaurant and that food shall be available to customers at all  
18 times during tastings.

19  
20 Commissioner Powel commented that the word “emphasize” should be changed to “emphasis” in  
21 the second sentence of Condition 3 in the draft Resolution. He stated that the intent in the staff  
22 report suggests that the products sold in the retail store would basically be specialty food  
23 ingredients rather than any prepared food to go, which is specified in Condition 3. He stated that  
24 the language of Condition 5 seems to be in conflict, which states: “Off-site sales shall be an  
25 accessory use to the primary restaurant use and shall be in conjunction with the adjacent  
26 associated retail sales of pre-packaged and prepared food for off-site consumption.” He  
27 suggested that the words “and prepared” be stricken from Condition 5.

28  
29 In response to a question from Commissioner Cohen, Senior Planner Jester said that the reason  
30 for not allowing prepared food in the retail portion is to prevent the store from becoming a deli  
31 type of restaurant with items such as sandwiches and salads. She indicated that the Metlox Use  
32 Permit specifically identifies two restaurants on the site in addition to the bakery and the ice  
33 cream store.

34  
35 **Petros Benekos**, the applicant, said that they want their store to sell specialty products from  
36 Greece that are sold no other place in Los Angeles. He said that they would not sell sandwiches  
37 at the retail store, and they do not wish for the store to be in competition with the restaurant. He  
38 stated that it would be convenient to display the wines at the store and then allow customers to  
39 taste and purchase the wines at the restaurant. He said that the retail store would be an upscale  
40 Greek market solely with items from Greek suppliers and products from the restaurant. He

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1 indicated that the restaurant is very busy, and his customers have requested that it remain open  
2 later. He said that the extra hour would benefit the players of Los Angeles sports teams who visit  
3 the restaurant after their games. He pointed out that the Shade hotel is permitted to operate later  
4 hours. He said that his operation is a restaurant and not a bar, and they have received no  
5 complaints. He pointed out that his employees have merchant permits to park in the Metlox  
6 structure, and they do not park on the adjacent streets. He indicated that the bar in his restaurant  
7 is never busy, and he wants his establishment to remain a restaurant rather than a bar.

8  
9 Chairman Schlager opened the public hearing.

10  
11 **Viet Ngo** stated that he wants it to be clear that he has no personal objection to the applicant. He  
12 said that there is evidence that Jonathan Tolkin has committed fraud and has deprived the  
13 residents of Manhattan Beach of honest service. He indicated that the Shade Hotel has slid in to  
14 receive a type 47 alcohol license. He indicated that there is evidence that Mike Zislis paid a  
15 bribe to a member of the City Council to amend their permit to have a bar and restaurant at the  
16 hotel. He said that there is a pattern of legalizing activity that is prohibited by U.S. Code Title  
17 18, Section 1961. He said that if the subject application is approved, Mike Zislis will demand to  
18 be treated equally for the hotel. He said that Metlox LLC is not legally licensed to conduct  
19 business, and he hopes that the FBI will intervene to end the corruption to the public. He said  
20 that the Commission has the opportunity to save the City and comply with the law. He  
21 commented that he is speaking in the best interests of the City and business owners to save them  
22 from prosecution in the future.

23  
24 Chairman Schlager closed the public hearing.

25  
26 Commissioner Bohner said that he is in favor of both proposals. He indicated that he does not  
27 feel that the proposals would be controversial and feels they would be an enhancement to the  
28 restaurant.

29  
30 Commissioner Lesser commented that he is concerned regarding the concern expressed to him  
31 that the extra hour of operation could possibly contribute to employees generating noise into later  
32 hours, but he does not feel the applicant should be singled out in particular. He pointed out that  
33 many other restaurants in the downtown area have later hours on weekdays and weekends than is  
34 proposed for the subject restaurant. He said that he would support the request, as the applicant  
35 has assured the Commission that he wants to maintain a restaurant rather than a bar. He said that  
36 he feels the restaurant brings people to the downtown area for the correct reasons and adds life to  
37 the plaza.

38  
39 Commissioner Powell said that the restaurant is a great addition to the Metlox development, and  
40 he supports the proposal. He indicated that the applicant has been a good neighbor. He

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1 commented that there are other downtown restaurants that have hours of operation beyond the  
2 subject request. He commented that approval of the subject application would apply to all  
3 businesses including the Shade hotel; however, the hotel's operation is a separate issue. He said  
4 that he is satisfied that the wine tasting would only be out of the restaurant. He stated that the off  
5 site sale of wine and the selling of Greek specialty items would be unique and serve a demand.  
6

7 Commissioner Cohen said that she also is in favor of both requests to amend the restaurant's  
8 existing permit. She indicated that the restaurant has been in operation over a year, and there has  
9 not been an issue of customers abusing the privilege of eating at the restaurant after 11:00 p.m. or  
10 midnight. She commented that she feels the applicant deserves the opportunity to remain open  
11 later, and changes can be made if any problems arise. She said that the restaurant is a great  
12 addition to the City, and the store would be an enhancement to the restaurant. She said that she  
13 would support both requests.  
14

15 Chairman Schlager said that he has visited the restaurant many times. He said that he reiterates  
16 the comments of the other commissioners  
17

18 A motion was MADE and SECONDED (Lesser/Bohner) to an Amendment to a Master Use  
19 Permit to extend the hours of operation by one hour, and allow off-site wine sales and associated  
20 tastings, at Petros Restaurant Located at 451 Manhattan Beach Boulevard, Metlox Development,  
21 with the additions that that the word "emphasize" be changed to "emphasis" in the second  
22 sentence of Condition 3 and that the words "and prepared" be stricken from the second sentence  
23 of Condition 5 in the draft Resolution.  
24

25 AYES: Bohner, Cohen, Lesser, Powell, Chairman Schlager

26 NOES: None

27 ABSENT: None

28 ABSTAIN: None  
29

30 Chairman Thompson explained the 15 day appeal period and stated that the item will be placed  
31 on the City Council's Consent Calendar for their consideration on January 2, 2007.  
32

33 The third item for the Commissions consideration is the proposal for curtains around the outdoor  
34 dining patio. Senior Planner Jester commented that there is seating on the outdoor patio of the  
35 restaurant for approximately 60 people, and there is inside seating for approximately 100 people.  
36 She indicated that staff previously approved an awning over the existing trellis for the patio. She  
37 stated that the applicant is also requesting curtains to be installed around the patio which could be  
38 closed during cold weather or rain. She indicated that there are currently heaters on the patio  
39 which were part of the original approval. She commented that staff felt comfortable in approving  
40 the awning but did not feel they could approve the curtains without seeking further direction

## PLANNING COMMISSION [DRAFT] MINUTES-EXCERPTS

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1 from the Commission. She said that the Fire Department does not have a concern with enclosing  
2 the patio, although they would need to conduct a flame test to ensure that there would not be a  
3 concern of fire safety. She indicated that none of the other City departments have expressed  
4 concerns. The developer, Jon Tolkin, submitted an e-mail supporting the curtain with conditions,  
5 generally indicating that the curtains should only be used when the weather conditions preclude  
6 the general public from utilizing the public Town Square, and the patio needs to function and  
7 read as an outdoor patio. The Shade patio has curtains, however that space is not directly on the  
8 Town Square and the patio is raised several feet.

9  
10 She said that staff's concern with the curtains is that it could impact the interactive relationship  
11 of the restaurant patio with the Town Square and create more of an enclosed area. The dynamics  
12 and active vitality, and energy of the spaces could be compromised with the curtains. She said  
13 that there is also the potential that other tenants would want the same sort of request. She said  
14 that staff is seeking direction as to whether the curtains would be appropriate.

15  
16 In response to a question from Commissioner Bohner, Senior Planner Jester said that no other  
17 requests for similar curtains have been made and staff is not aware of any possible similar  
18 requests in the future.

19  
20 In response to a question from Commissioner Lesser, Director Thompson stated that the curtains  
21 would be basically to shield from the cold and wind, and there is no real method to protect the  
22 patio during the rain. He said that staff would ask the Commission to consider possibly restricting  
23 the curtains, by allowing them to be closed only during the winter months, three months of the  
24 year. He stated that staff has not taken a position on the request, and they are bringing the  
25 information forward to the Commission for their direction.

26  
27 In response to a question from Commissioner Cohen, Senior Planner Jester indicated that the  
28 proposed material for the curtains is a heavy canvas that would be a sandy color.

29  
30 In response to a question from Commissioner Powell, Senior Planner Jester said that staff does  
31 have a concern that it would be difficult to enforce any restrictions that are placed on the use of  
32 the curtains if they are approved.

33  
34 Commissioner Cohen said that she feels the applicant should be given the presumption that he  
35 would cooperate with any conditions that are placed on the use of the curtains.

36  
37 **Mr. Benekos** said that he understands the issue is complicated because of the qualities of having  
38 an open plaza. He said that his customers have made requests for protection from the fog and  
39 rain, which is the reason he paid to have the awning installed. He said that he has strictly  
40 enforced the conditions of the awning. He commented that the proposed curtains would



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1 compliment the plaza and restaurant. He indicated that the Shade hotel uses similar curtains that  
2 they have installed every day in order to mitigate noise from the plaza. He commented that the  
3 Shade is also part of the plaza, and it seems to be discriminating to allow curtains for the hotel  
4 and not for his restaurant. He said that he would support and comply with any conditions on the  
5 use of the curtains by the City because he does not want the patio to be closed off from the rest of  
6 the plaza. He said that he does need his customers to remain comfortable while they are dining,  
7 and it seems reasonable to allow the use of the curtains after 6:00 p.m. or 6:30 pm. at times when  
8 the temperature drops below 65 degrees. He stated that fog comes in over the area typically in  
9 May through July which drops the temperature. He indicated that he needs to have the ability to  
10 cover the patio to accommodate the customers who come for dinner. He commented that there  
11 generally are not families wandering around the plaza area after 7:00 at night.

12  
13 **Chris Girt**, Tolkin and Associates Architecture, representing the applicant, described the design  
14 of the proposed curtains. He indicated that the intent of the proposal is to keep the customers of  
15 the restaurant happy. He said that the curtains would be compatible and not detract from the  
16 design of the building or the plaza area.

17  
18 In response to a question from Commissioner Lesser, **Mr. Girt** said that the concern regarding  
19 the closing off of the patio from the rest of the plaza could be mitigated by restricting the hours  
20 during which the curtains may be closed. He commented that the pattern proposed on the  
21 curtains also would help make them blend with the design restaurant when they are closed.

22  
23 In response to a question from Commissioner Cohen, **Mr. Girt** indicated that they would be  
24 willing to consider different types of material if the Commission concludes that they feel the  
25 proposed fabric would result in the curtains creating too much of a barrier between the restaurant  
26 and the plaza.

27  
28 Commissioner Powell commented that he has seen similar types of curtains that were transparent  
29 and not very noticeable, and he has seen others that were faded and discolored. He stated that his  
30 recollection from the Cultural Arts Commission discussion of the Metlox project design is that  
31 there were certain paint colors for the structures that were dictated and others that were  
32 discouraged or disallowed. He commented that he would like for other alternative fabrics to be  
33 considered for the curtains that would appear more open and transparent. He said that he would  
34 also want the curtains to be used only when necessary for temperature extremes and inclement  
35 weather and during the evening. He indicated that heaters function well to provide heat when the  
36 outside temperature is cold. He said that he is not certain of the necessity for curtains when the  
37 temperature can be controlled by the heaters.

38  
39 **Mr. Girt** commented that the purpose of the curtains would be to retain some of the heat that  
40 radiates from the heaters. He pointed out that the existing outdoor heaters at the restaurant are

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1 not as powerful as the vertical mobile units used by some other establishments. He indicated that  
2 standards of the Fire Department require review and approval.

3  
4 Chairman Schlager opened the public hearing.

5  
6 There being no one wishing to speak regarding the issue, Chairman Schlager closed the public  
7 hearing.

8  
9 Commissioner Cohen said that she would support allowing the applicant an opportunity to utilize  
10 the proposed fabric; however, she would recommend that staff work with the applicant to  
11 consider more translucent or transparent and aesthetic fabrics that would also be approved by the  
12 Fire Department. She said that she would be willing to support allowing the proposed material if  
13 there were no other viable alternatives. She indicated that changes can be made after the curtains  
14 are installed if it is felt that the restaurant has become too isolated. She said that she appreciates  
15 that the applicant does not want to lose business on the patio during cold weather. She  
16 commented that it would be difficult to regulate use of the curtains according to the temperature,  
17 and it would require good faith by the applicant. She stated that she feels the applicant should be  
18 given the benefit of the doubt. She indicated that it would be difficult to specify certain months  
19 during which the curtains may be closed.

20  
21 Commissioner Powell said that there were cogent arguments in favor and against the curtains. He  
22 indicated that the original intent of the Metflox project was for it to provide an open town square  
23 atmosphere. He indicated that the Shade hotel already has similar curtains; however, it is not  
24 directly in the center of the town square. He said that he has no doubt that the applicant is  
25 responsible and that there would not be an issue of his complying with any conditions. He  
26 indicated that the Commissioners have also been told that no other businesses are considering  
27 such a request; however, enforcement could be an issue in the event other businesses do decide  
28 they want similar curtains. He pointed out that people most likely would not be congregated in  
29 the town square during the times that the curtains would be closed in the evenings in extreme  
30 cold. He suggested that there be a review period after curtains would be installed, and action  
31 could be taken if there are considerable issues.

32  
33 Commissioner Bohner said that the request is reasonable, and there would be an incentive for the  
34 applicant to have the curtains open under regular conditions. He indicated that the use of the  
35 curtains can be restricted to evening hours and certain temperature conditions. He said that he  
36 would encourage the applicant to consider other materials for the curtains that would possibly be  
37 translucent, but he does not have a strong objection to the proposed material. He commented that  
38 he would not burden the applicant to allow the curtains on a temporary basis. He said that he  
39 would be in favor of allowing the curtains and limiting them to be closed only during the  
40 evening, and possibly only under a certain temperature.

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1  
2 Commissioner Lesser said that it is in the interest of the applicant to maintain the town square  
3 atmosphere, and part of the charm of the restaurant is that it is part of the town square. He stated  
4 that there is a consensus for a trial of different fabrics. He said that he would suggest that staff  
5 evaluate other materials for the curtains to determine whether a more translucent material could  
6 be used. He stated that he would defer to staff if it is determined that the proposed canvas is the  
7 only material that is viable given the fire code. He said that he would also defer to staff to arrive  
8 at reasonable restrictions for the hours that the curtains could be closed.

9  
10 Chairman Schlager said that he feels the request is reasonable. He commented that he would be  
11 in favor of granting the request for Petros and other restaurants that may make similar requests in  
12 the future provided there are conditions. He suggested including conditions that the patio remain  
13 open until sunset and open unless the temperature is below 65 degrees. He said that he would  
14 also support a condition that the north and south ends of the patio remain open. He said that his  
15 concern is that the restaurant does attract a high clientele, and there are probably occasions where  
16 parties would want to be provided with more privacy, and he would not want the curtains used  
17 for this purpose. He said that he would also direct the staff to consider alternative fabrics that  
18 would be transparent or semi-transparent with the goal of remaining aesthetically pleasing.

19  
20 Director Thompson suggested that the curtains not be permitted to be closed before 6:30 p.m., or  
21 sunset whichever is later. He also pointed out that there are certain events that occur in the town  
22 square which is when there is a lot of activity in the center and staff would not want to see the  
23 curtains closed during those times, or other times when the town square is active.

24  
25 Commissioner Cohen suggested that a condition be included that the applicant cooperate with  
26 Town Square functions.

27  
28 Director Thompson said that staff's understanding is that the direction of the Commission would  
29 be to allow the use of the curtains throughout the entire year with restrictions on the hours and  
30 temperature during which they may be closed.

31  
32 **ADJOURNMENT**

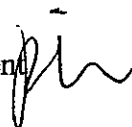
33  
34 The meeting of the Planning Commission was **ADJOURNED** at 8:50 p.m. in the City Council  
35 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, December 13, 2006, at 6:30 p.m. in  
36 the same chambers.


37  
38  
39 \_\_\_\_\_  
40 RICHARD THOMPSON  
Secretary to the Planning Commission

\_\_\_\_\_  
SARAH BOESCHEN  
Recording Secretary

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Planning Commission

**THROUGH:** Richard Thompson, Director of Community Development 

**FROM:** Laurie B. Jester, Senior Planner 

**DATE:** December 13, 2006

**SUBJECT:** Consideration of an Amendment to a Master Use Permit to extend the hours of operation by one hour, and allow off-site wine sales and associated tastings, at Petros Restaurant located at 451 Manhattan Beach Boulevard, , Metlox Site, (Petros Benekos, Petros Restaurant)

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, DISCUSS, and ADOPT A RESOLUTION** (Exhibit A) approving the amendments for the hours of operation and off-site wine sales and associated tastings. Staff also recommends that the Planning Commission review the proposal for the curtains surrounding the outdoor dining area and provide direction to staff.

**PROPERTY OWNER**

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

**APPLICANT**

Petros Benekos, Petros Greek Cuisine and Lounge  
451 Manhattan Beach Boulevard  
Manhattan Beach, CA 90266

**PROJECT OVERVIEW**

The Metlox project, which includes a two-story subterranean public parking structure accommodating approximately 460 cars with a public Town Square on top of the parking deck, as well as a commercial development approximately 63,850 square feet in area, was approved by the City Council in July 2002. The commercial development includes 2 full service restaurants with outdoor dining adjacent to the central Town Square, including Petros Greek Restaurant.

The proposed project is a modification of the previously approved permits for Petros Restaurant. The applicant proposes to amend the Master Use Permit for the Metlox project as follows:

1. Modification of the previously hours of operation to extend the hours on Sunday-Thursday from 11:00 PM to 12:00 AM (midnight) and Friday and Saturday from 12:00 AM (midnight) to 1:00 AM. (Condition No. 29, City Council Resolution No. 5770)
2. Allow sales of wine for off-site consumption from the restaurant and associated tastings. Books of wine selections will be displayed in the adjacent new Greek Specialty Store,

currently occupied by Petros Vintage Boutique. (Condition No. 38, City Council Resolution No. 5770)

Additionally, staff is requesting that the Planning Commission review the applicants' proposal to enclose the outdoor dining area with curtains. As described in detail in the Discussion section of this report, staff has concerns that curtains surrounding the outdoor dining area will change the character and dynamics of the outdoor space and its relationship to the adjacent public Town Square and therefore staff is bringing this item before the Commission for review and action.

No amendments to any other conditions of approval are proposed. The previous approval of full liquor sales for the other restaurant, Juniors Deli Boy and for the Shade Hotel, will not be modified with this Amendment.

## **BACKGROUND**

The Metlox project is the culmination of many years of community participation and input through workshops and meetings. The following is a summary of some of the key milestones for the Metlox site:

- 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
- 1997/98- The City purchased the Metlox property to control development and Master Plan the site
- 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
- December 1998- The City selected the Tolkin Group as a development partner
- April 2001- The City Council certified the EIR.
- April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
- July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council
- November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit
- February 2003- Groundbreaking for the Metlox parking structure
- January 2004- Grand opening of public parking structure with 460 parking spaces
- April 2004- Shade Hotel construction commenced
- September 2004- Construction of the Metlox commercial buildings started
- December 2005-Ribbon-cutting and grand opening of the Metlox project

The project before the Planning Commission is an amendment to the Master Use Permit and related entitlements for Petros Restaurant. The Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. They have made the determination on previous applications that an amendment to their permit is not necessary for changes related to alcohol sales.

## **PROJECT DESCRIPTION AND DISCUSSION**

The applicant proposes the following amendments to the Master Use Permit and project approvals:

### ***Hours of operation- One additional hour***

The Master Use Permit for the project limits the hours for the two restaurants to 11:00 PM Sunday through Thursday and 12:00 AM (midnight) Friday and Saturday. The applicant proposes one additional hour seven days a week to accommodate the desires of their customers. Staff discussed the current hours allowed by the Master Use Permit with the operators of Juniors Deli boy and the Shade Hotel and both indicated that they are not proposing any changes to their hours of operation. Le Pain Quotidian, the bakery, submitted an amendment to the Master Use Permit in May 2006 to request beer and wine for on-site consumption, however that application has been incomplete and inactive for several months. Petros does not currently have an Entertainment Permit and has not indicated any desire for entertainment. The Master Use Permit, Condition No. 40, regulates entertainment on the site by requiring an annual Entertainment Permit for any entertainment other than non-amplified background-type music, with a maximum of 2 entertainers.

A number of restaurants in the Downtown area have approval to stay open to the hours proposed, and some have approval for longer hours. The attached chart details the allowed hours for various restaurants in the Downtown (Exhibit C). Petros Restaurant has been open one year and is well established in the community. Staff is not concerned with the proposal to increase the hours of operation by one hour each night.

### ***Alcohol- Off-site consumption sales***

Currently Petros has a retail boutique adjacent to the restaurant with vintage clothing and accessories. The applicant indicates that the customers at the restaurant have expressed a desire to purchase some of the specialty Greek food and wine that are not readily available to take home. The proposal is to convert the boutique to a specialty retail shop with Greek food, products and wine, with pre-packaged items such as olives and cheeses. Prepared food-to-go such as sandwiches and salads would not be provided. The wine would not be sold from the shop but instead would be sold from the restaurant, and a book showing and describing the wines would be on display at the shop. Customers would also be able to taste samples of wines at the restaurant prior to purchasing. The State Alcoholic Beverage Control Board (ABC) has indicated to the applicant and staff that the existing ABC license would allow this type of use. The ABC would not allow the display of full or empty bottles of wine at the retail shop. The Master Use Permit, Condition No. 38, does not provide for the sale of alcohol for consumption off-premises and requires an amendment to the Use Permit. Retail sales of food and non-alcoholic beverages for consumption off-site is allowed by the Master Use Permit and no amendment is required.

Staff believes that this very limited sale of specialty Greek wine at the restaurant would not be an issue and would be consistent with the intent of the original Master Use Permit. No alcohol would be allowed to be sold directly from the retail store.

### ***Outdoor dining patio curtains***

The applicant proposes to enclose the outdoor dining patio with heavy canvas type curtains on the west side of the patio, leaving the short north and south ends, which are required fire exiting, open. Staff has concerns about the curtains surrounding patio and informed the applicant that review by the Planning Commission would be required.

Through the public review process of the Metlox project a number of overall design concepts were discussed and approved, as well as specific design details. One of key elements of the project design was the creation of a public Town Square in the center of the project surrounded by the buildings. The vision of this space by the developer, architects and the City was to create a very active, vibrant and open outdoor public gathering area; a public "living room". This was accomplished by orienting the two restaurants within the project on either side of the Town Square, with the bakery, ice cream store and retail shops completing the square. Interactive outdoor art, including the central fountain surrounded by grass and the "kiln" outdoor fireplace, as well as tables and chairs beneath large shade trees on top of an accent "carpet" of special pavement was included within the design. Special outdoor community concerts and events take place within the Town Square as a central outdoor gathering space. Outdoor seating is also provided at the bakery and the ice cream store, as well as other retail spaces to enliven the project.

A critical factor in the design of the Town Square is the placement of the large outdoor dining patios for the two restaurants that face the Town Square to help create and enhance the activity and vibrancy of the area. These open patios are enclosed by low open railing as required by the State Alcoholic Beverage Control Board (ABC) so that they may serve alcohol within the outdoor patios. The outdoor patio seats 60 people while the inside dining accommodates approximately 100 customers. The approved design for the site includes trellises throughout the project to enhance the building architecture and create a sense of outdoor rooms without creating enclosed environments. This interactive relationship between the outdoor patios and the Town Square and other public areas is a critical factor in the design and vision of the project. Since the project opened a year ago in December 2005, the project has been well received by the community and the Town Square has been embraced as a very active outdoor public gathering space as envisioned by the project team. In successful public outdoor spaces throughout the world the interactive relationship helps create the vitality of the spaces; just as on the public sidewalks throughout Downtown.

Staff approved the addition of a temporary awning over the trellis at Petros several months ago so that the outdoor dining area could be provided with shade and a portion could be used even if it was raining. The agreement with the applicant was that the awning would only be open at limited times and seasons when necessary for these purposes. Overhead heaters are also included within the outdoor trellis s part of the original design. Staff and the project developer felt comfortable approving the awning as it was in the same location as the trellis and was easily retractable so that the feel of the outdoor space was not altered. Exhibit D includes comments from the Metlox developer, Jon Tolkin, on the awning and curtains.

The concern that staff has with the curtains is that they will enclose the outdoor dining patio so that it no longer “feels” like an outdoor space and the critical interactive relationship between the Town Square will be compromised. Although the applicant states that the physical look of the curtains would be similar to those at the Shade outdoor patio, the setting is quite different as the Shade is not directly on the Town Square, their patio is raised and enclosed with solid railings, and the space is not a restaurant space, it has limited use. Staff is also concerned that if curtains are approved in this location that Juniors Deli boy will also provide a similar enclosure. Deli boys has already installed a trellis framework and has approval for retractable awnings which where not part of the original design. The applicant has stated that the curtains will only be closed during the night when it is cold or when it is raining, and staff has concerns about monitoring and enforcing such a proposal.

Staff believes that maintaining a strong connected relationship between the public, private and quasi-public outdoor areas is critical to the energy of the spaces. Staff would recommend that the Commission consider these factors and provide direction to staff on the curtains proposed to surround the outdoor dining area. If the Commission is inclined to approve the curtains staff would suggest conditions to limit not only the hours that the curtains could be closed, but also that the curtains could only be installed for the 2-3 months of winter and would need to be removed the rest of the year.

#### ***Noticing and comments***

Notices of the public hearing were provided to all property owners within a 500 foot radius of the project site and published in the Beach Reporter. No public comments were received. The application was also circulated to other Departments for review and comments. The Fire Department has concerns about the curtains and how they would work with the outdoor heaters and overhead awning without impacting Fire Life Safety. The applicant is providing more information to the Fire Department on this issue and staff will discuss their findings at the Planning Commission meeting. The Police Department had no concerns about the limited off-site sale of wine. The Building Safety Division indicated that the curtains would be reviewed for conformance with all code requirements through the plan check process and no comments were received from the Public Works Department

#### ***Environmental Review***

An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. There have been no substantial changes to the project, the surrounding area or environment, and the facts associated with the project have not substantially changed from those evaluated in the certified EIR from an environmental impact viewpoint. Therefore, the existing certified EIR is a valid environmental document that adequately evaluates the environmental impacts of the project in accordance with the requirements of CEQA and the project can rely upon this document for conformance with the requirements of CEQA. The EIR includes Mitigation Measures and a Mitigation Monitoring and Reporting Program in accordance with the requirements of CEQA. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, the public Library, and on the City’s website.



## **CONCLUSION**

Staff recommends that that Planning Commission take the following actions:

1. Conduct the public hearing
2. Discuss the project
3. Adopt the attached Draft Resolution approving the following:
  - a. Increase the hours of operation for the restaurant by one hours from 11:00 PM Sunday through Thursday to 12:00 AM (midnight) and from 12:00 AM (midnight) Friday and Saturday to 1:00 AM.
  - b. Allow the limited sale of specialty Greek wine and alcohol at the restaurant for off-site consumption with the display of products in a book at the retail shop.
4. Provide direction to staff on the proposed curtains surrounding the outdoor dining area

## **ATTACHMENTS**

- Exhibit A: Draft Planning Commission Resolution No. 06-XX  
Exhibit B: Application with Project Description  
Exhibit C: Chart of Restaurants with alcohol sales in the Downtown  
Exhibit D: City Council Resolution No. 5770- Master Use Permit- Metlox  
Exhibit E: E-mail from Jon Tolkin, Tolkin Group November 14, 2006

- c: Petros Benekos, Petros Greek Cuisine and Lounge  
Jon Tolkin- Tolkin Group  
Glenn Loucks- Tolkin Group

RESOLUTION NO. PC 06-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING AN AMENDMENT TO A MASTER USE PERMIT FOR MODIFICATIONS TO THE PREVIOUSLY APPROVED HOURS OF OPERATION AND TO ALLOW SALES OF WINE FOR OFF-SITE CONSUMPTION AT PETROS GREEK RESTAURANT, FOR AN ASSOCIATED RETAIL STORE, METLOX SITE, 451 MANHATTAN BEACH BOULEVARD. (PETROS BENEKOS, PETROS GREEK CUISINE AND LOUNGE)

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

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

- A. Petros Benekos, Petros Greek Cuisine and Lounge, is seeking approval of an Amendment to a Master Use Permit, to allow modifications to the previously approved hours of operation and to allow alcohol sales for off-site consumption at Petros Restaurant, 451 Manhattan Beach Boulevard, Metlox site, in the City of Manhattan Beach.
- B. In accordance with the Master Use Permit approval an Amendment to the existing Master Use Permit approval is required for the project.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. The California Coastal Commission does not regulate alcohol sales and hours and therefore their review of the project is not required to be processed.
- D. The applicant is Petros Benekos, Petros Greek Cuisine and Lounge and the property owner is the City of Manhattan Beach.
- E. The following is a summary of some of the key milestones for the Metlox site:
  - 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
  - 1997/98- The City purchased the Metlox property to control development and Master Plan the site
  - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
  - December 1998- The City selected the Tolkin Group as a development partner
  - April 2001- The City Council certified the EIR
  - April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
  - July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council
  - November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit
  - February 2003- Groundbreaking for the Metlox parking structure
  - January 2004- Grand opening of public parking structure with 460 parking spaces
  - April 2004- Shade Hotel construction commenced
  - September 2004- Construction of the Metlox commercial buildings started
  - December 2005- Ribbon cutting and grand opening for the Metlox Center



- F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of December 13, 2006. The public hearing was advertised pursuant to applicable law and testimony was invited and received.
- G. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. There have been no substantial changes to the project, the surrounding area or environment, and the facts associated with the project have not substantially changed from those evaluated in the certified EIR from an environmental impact viewpoint. Therefore, the existing certified EIR is a valid environmental document that adequately evaluates the environmental impacts of the project in accordance with the requirements of CEQA and the project can rely upon this document for conformance with the requirements of CEQA. The EIR includes Mitigation Measures and a Mitigation Monitoring and Reporting Program in accordance with the requirements of CEQA. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, the public Library, and on the City's website.
- H. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the property to the north is zoned Public and Semipublic, and the property to the east is zoned Open Space.
- I. The General Plan designation for the property is Downtown Commercial.
- J. The proposed project is a modification of the previously approved conditions to amend the Master Use Permit for the Metlox project as follows:
  - a. Modification of the previously hours of operation to extend the hours on Sunday-Thursday from 11:00 PM to 12:00 AM (midnight) and Friday and Saturday from 12:00 AM (midnight) to 1:00 AM. (Condition No. 29, City Council Resolution No. 5770)
  - b. Allow sales of wine for off-site consumption from the restaurant and associated tastings. Books of wine selections will be displayed in the adjacent new retail Greek Specialty Store, currently occupied by Petros Vintage Boutique. (Condition No. 38, City Council Resolution No. 5770)
- K. The primary use and purpose of Petros Restaurant is and will continue to be a restaurant. The sale of alcohol for off-site consumption and on-site tastings will be an accessory use.
- L. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- M. This Resolution, upon its effectiveness, constitutes the Amendment to the Master Use Permit for the subject property. This Resolution only amends Conditions No's 29 and 38 of Resolution No. 5770, all other conditions remain effective and in full force.
- N. Based upon State law, and MBLCP Section A.84.050, relating to the Amendment to the Master Use Permit application for the proposed project, the following findings are hereby made:
  - 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 since, the proposed amendments to the 'use permit' for Petros Restaurant are consistent with the Commercial Downtown designation. This area is specifically designated for commercial activity and services for residents and out-of-town visitors. Several

other business operations in the area already engage in similar uses. The project provides a full range of services needed by residents of, and visitors to, the city and region. The project will strengthen the city's economic base, but also protect small businesses that serve city residents. The project protects surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts.

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 since, the proposed amended 'use permit' of this business property is consistent with the General Plan for the Commercial Downtown designation, because it is merely the granting of additional privileges to an already approved use that will result in no fundamental change of that use. Amending the 'use permit' will have no environmental impact and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the restaurant. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the city. Additionally, the project is consistent with the following General Plan Goals and Policies:

**GOALS AND POLICIES: LAND USE**

**Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.**

Policy LU-6.1: Support and encourage small businesses throughout the City.

Policy LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

**Goal LU-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.**

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 since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy. The proposed amended 'use permit' for Petros Restaurant is consistent with the already approved primary use. The new use will comply with the provisions and conditions of this title.
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. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the project will all be complied with. Conditions to conform to applicable Code standards will apply. Because the proposed amended use permit will not alter the fundamental use, purpose or character of the restaurant, and because there will not be any significant change in occupancy or intensification of the property, the proposed amended use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.

**SECTION 2.** The Planning Commission of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit Amendment subject to the following conditions.

**General Conditions**

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the Planning Commission on December 13, 2006, subject to any special conditions set forth below. The layout of the retail specialty Greek food store and any display area or other modifications to the restaurant is subject to further review and approval by the Director of Community Development. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

**Land Use**

(This condition replaces Condition No. 29- City Council Resolution No. 5770)

2. The hours of operation for the site shall be permitted as follows:
  - a. Restaurant, food service, retail and personal service: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, with the exception of the restaurant located on the east side of the Town Square, Suite B-110, Petros Greek Restaurant, which is allowed up to 6:00 am to 12:00 am (mid-night) Sunday through Thursday, and 6:00 am to 1:00 am Friday and Saturday.
  - b. Offices: Up to 24 hours
  - c. Town Square and Public Areas: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, seasonal, depending on weather.
3. The specialty retail Greek store shall not keep, display or sell prepared food-to-go, such as, and including but not limited to, sandwiches, or salads. The emphasize of the store shall be on pre-packaged specialty food products and cooking items with accessory specialty wine. The wine sales shall be a secondary use to the primary retail use.

**Alcohol**

(These conditions replace Condition No. 38- City Council Resolution No. 5770, and condition No. 3-Planning Commission Resolution No. PC 05-08)

4. The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation.
5. The sale of specialty wine for off-site consumption shall be limited to Petros Greek Restaurant, Suite B-110. Off-site sales shall be an accessory use to the primary restaurant use and shall be in conjunction with the adjacent associated retail sales of pre-packaged and prepared food for off-site consumption. Sales of wine for off-site consumption may not occur at the restaurant if there is no associated retail shop.
6. The specialty retail Greek store shall not keep or display alcohol. Books or other visual displays may to used to show photographs and descriptions of the alcohol for sale at the restaurant. The wine sales shall be a secondary use to the primary retail use.
7. Display of alcohol at the restaurant that is for sale in the retail shop shall be limited to the bar area. All displays shall be maintained so that alcohol is not directly accessible to the customer.

8. Tastings of alcohol for sale in the retail store may occur at the restaurant, however the primary use of the restaurant shall remain a restaurant and food shall be available to customers at all times during tastings.
9. In the event that the business known as Petros Greek restaurant and the retail specialty Greek store should vacate the premises, the tenant spaces may be occupied by another similar use, if upon its review, the Department of Community Development determines that the replacement use has the same use characteristics as Petros Greek restaurant and the retail specialty Greek store, including type of service provided, and peak hours of activity. The intent of this condition is to ensure that any replacement retail tenant with wine sales would be a similar use.
10. The property owner shall obtain approval from the State Department of Alcoholic Beverage Control and Los Angeles County Health Department, as required, and shall comply with all related conditions of approval.
11. No exterior sign modification and/or additions advertising wine tasting is permitted.
12. The Hotel may provide full liquor service throughout the Hotel, including self-service in room "mini-bars", and a portable bar for special events. The service of alcohol at the Hotel shall be in conjunction with food. The hours of food service, and the associated alcohol service, shall be consistent with the project description, which is generally breakfast, evening appetizers and for special events. The Sale of alcoholic beverages for consumption off-premise is not approved with this Master Use Permit. This approval shall operate within all applicable State, County and City regulations governing the sale of alcohol prior to the start of business operations. Any violation of the regulations of the Department of Alcohol and Beverage Control as they pertain to the subject location, or of the City of Manhattan Beach, as they relate to the sale of alcohol, may result in the revocation and/or modification of the subject Master Use Permit.

***Procedural***

13. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.
14. Fish and Game. 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.
15. Lapse of Approval. The Master Use Permit Amendment shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
16. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.
17. Effective Date. Unless appealed to the City Council, the subject Master Use Permit Amendment shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
18. Review. All provisions of the Master Use Permit Amendment are subject to review by the Community Development Department 6 months after occupancy and yearly

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

19. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
20. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
21. Legal Fees. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

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 **December 13, 2006**, and that said Resolution was adopted by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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**RICHARD THOMPSON**  
Secretary to the Planning Commission

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Sarah Boeschen  
Recording Secretary

**PETROS**  
**ΠΕΤΡΟΣ**

GREEK CUISINE AND LOUNGE

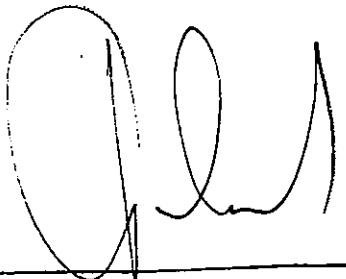
October 27, 2006

Petros Greek Cuisine and Lounge/Vintage

Formal Requests to the City of Manhattan Beach re:

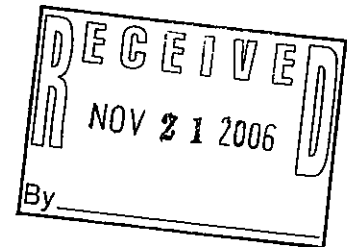
1. To increase hours of Operation for Petros Restaurant
2. Allow Retractable Curtains on patio for Restaurant
3. Allow Off Site Alcohol, Wine Only, from Restaurant
4. Allow retail vintage store to be converted to Greek Specialty Store

All letters of Intent and Operation have been written to detail the following requests.



Petros Benekos

owner/president





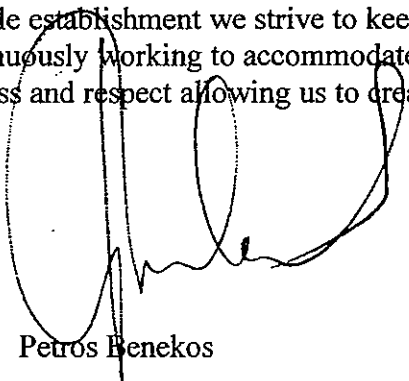
July 18, 2006

**Petros Greek Cuisine and Lounge  
Request to Amending # 29 Master Use Permit**

Petros Greek Cuisine and Lounge located at 451 Manhattan Beach Blvd B110 in the Metlox center, open since December 16,2005, is requesting to amend #29 "land use" of the Master Use Permit for the shopping center. We would like to request an additional hour on both weekdays and weekends- extending from Sun-Thurs 11pm to 12pm and Friday and Saturday from 12pm to 1am.

We feel that it would be beneficial and accommodating to our customers, as we have had personal requests to be open later in order to keep our kitchen open and serve dinner. At times we have customers demanding to be served until 11-11:30pm.

We are also host to many sports teams such as the Lakers, Clippers, and LA Kings. After home games or a late flights team members often come to dine at our restaurant as it is a later hour and there are no other fine dining restaurants in the area to reside late evening for dinner. There are other upscale establishments that have similar hours we're requesting that they're able to enjoy but although they have extended hours they either choose not to stay open because of demand or they do not continue to serve dinner only drinks. We have had no complaints about noise as our patio faces the inside of plaza away from the neighborhood lying behind us. We do not have any live entertainment only background music inside and on our patio via audio system. We also enforce strict dress code after 5pm eliminating a common crowd found at bars. As an upscale establishment we strive to keep a reputable position in the community by continuously working to accommodate our customers and by following strict principles of class and respect allowing us to create a clean, lively and enjoyable atmosphere.



Petros Benekos

Date: 7/18/06

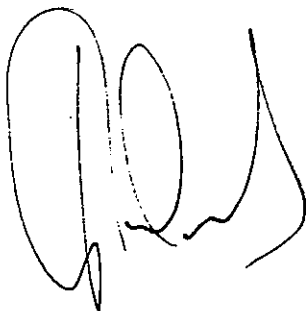
Petros Greek Cuisine and Lounge  
Owner/President

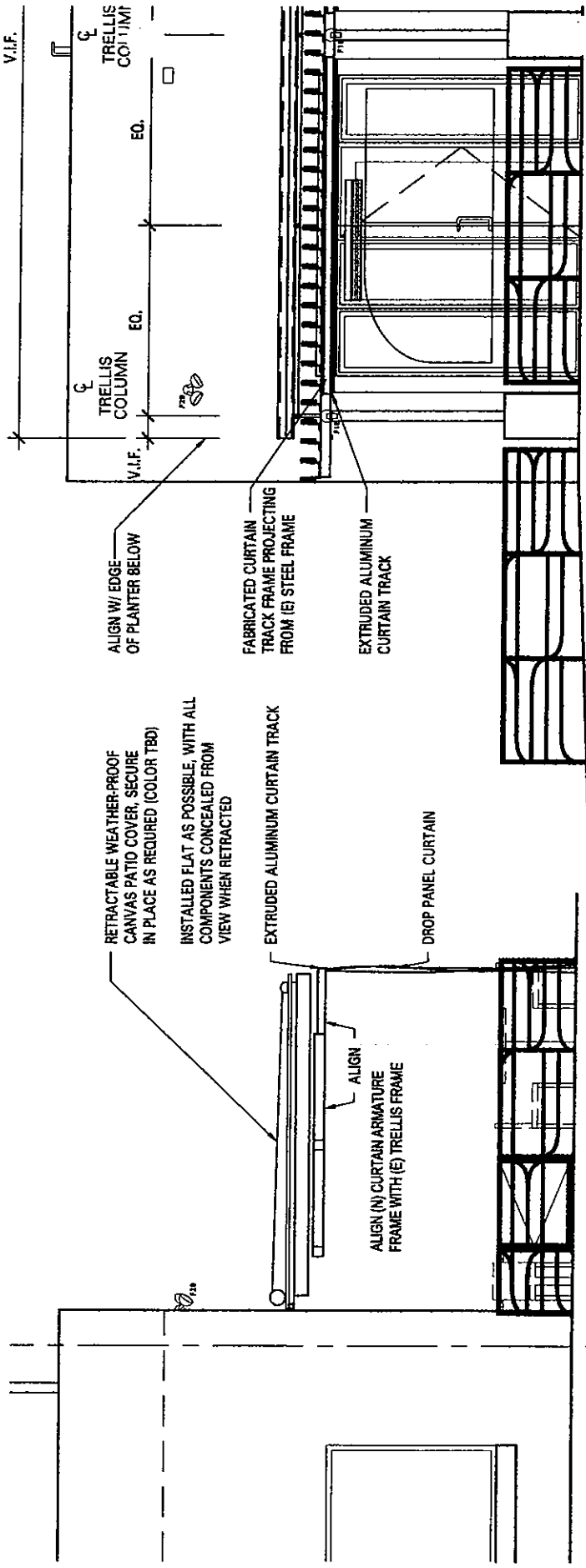
October 24, 2006

**Letter of Intent and Operation  
Petros Greek Cuisine and lounge**

Petros Greek Cuisine and Lounge located at 451 Manhattan Beach Blvd B110 in the Metlox Center, open since December 16, 2005, is requesting to be allowed to have curtains on our patio, retracted throughout the day and in warm weather, only to be closed with cold weather or rain in the evenings.

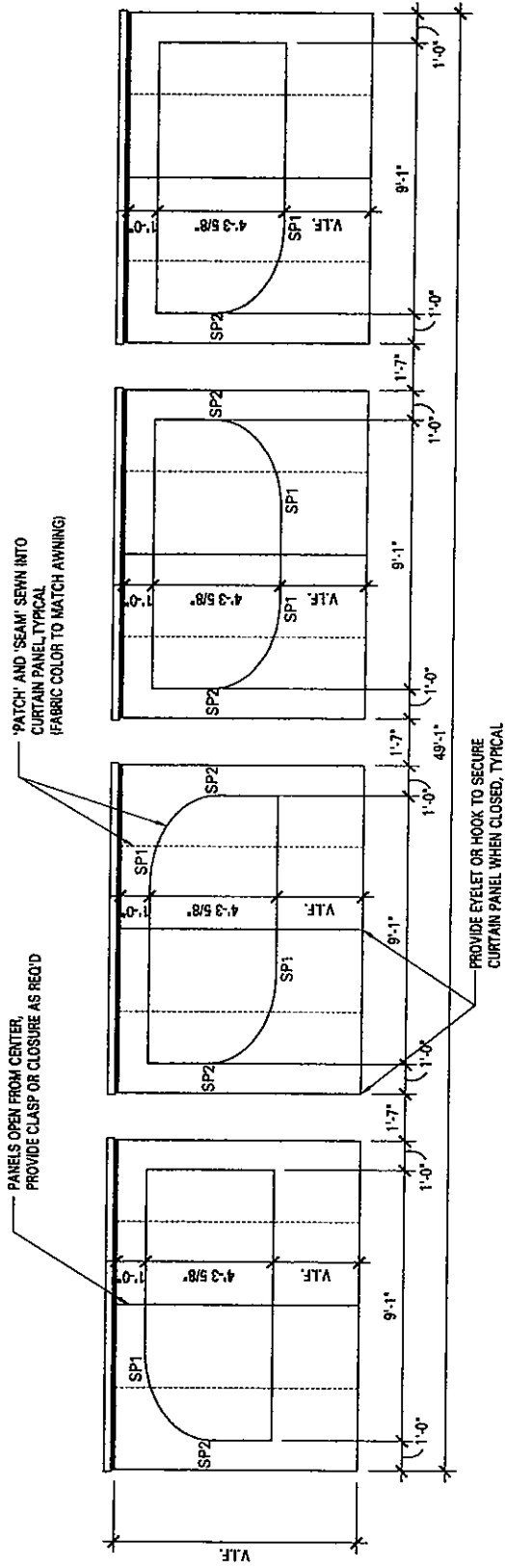
We are requesting retractable curtains for our patio to better accommodate our customers. Petros has an outdoor patio that seats about 60 people and is covered by a retractable fire retardant awning. This helps with the rain and sun, but customers are requesting a better way to keep the heat in for the colder weather. We would like to be allowed to have curtains hung on outer side of the patio that will be pulled back throughout the daytime and only drawn closed in colder weather or rain to give our customers a better dining experience and warmth. It is not our intention to separate ourselves from the Metlox center, but only to accommodate our customer's requests in the evening. We do not want to lose the seating on our patio in colder months as it affects our business and customer requests. The curtains will be a neutral color as well as fire retardant and hung neatly along the patio.

A handwritten signature in black ink, appearing to be the name 'Petros', written in a cursive style.



2 PATIO ELEVATION

SCALE: NTS



**1** PANEL ELEVATIONS SCALE: NTS

**October 24, 2006**

**Letter of Intent and Operation  
Petros Vintage/Petros Greek Cuisine & Lounge**

Petros Vintage located at 451 Manhattan Beach Blvd B106 in the Metlox Center, open since December 23, 2006 is requesting an approval from the City of Manhattan Beach to allow us to change our vintage retail clothing store into a unique Greek Specialty Store providing prepackaged Greek foods and products uncommon and hard to find in the surrounding areas of Manhattan Beach.

The owner of Petros Vintage, Petros Benekos, who also owns Petros Greek Cuisine and Lounge in the Metlox center, would like to be able to provide hard to find Fine Greek products such as honey, extra virgin Greek Olive oil, cheeses, dips, cooking ingredients, etc. in a store next to the restaurant. The store is conveniently located a space down from the restaurant making it easily accessible to waiting patrons from the restaurant or passer bys. The concept of the store is to be unique and simple. To offer gift ideas and baskets for holidays or special occasions, to provide a store that individuals can learn more about Greek Products including the fine wines of Greece. The wines will not be sold in the store only consumed or tasted in the restaurant; a book of wines will be displayed in the store for more explanation and learning.

We would like to also request approval from the City of Manhattan Beach to allow us to sell closed bottles of wine from our restaurant. Under our alcohol license Type 47 we do not have any restrictions imposed on our license that would restrain us from selling wine from our establishment but do have restrictions set forth to us from the City. We have many customer requests to buy our bottles of Greek Wine to take home and enjoy or to give as gifts, but we are unable to allow such a sale at this time. We would like to incorporate the selling of the Greek Wines with the Specialty store allowing customers to purchase all types of hard to find Fine Greek Foods and Wines enabling customers to enjoy the products at home or with friends. Our main focus of the store will be primarily the food products and the wine emphasis will be minimal. We feel that it would add to the uniqueness of Manhattan Beach and fill the requests of our customers.





# MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT

<b>Office Use Only</b>	
Date Submitted:	8/29/06
Received By:	RL [initials]
F&G Check Submitted:	yes

Petros Greek cuisine & Lounge  
451 Manhattan Beach Blvd Bldg MB CA 90260  
Project Address

full service restaurant / bar  
Legal Description

General Plan Designation \_\_\_\_\_ Zoning Designation \_\_\_\_\_ Area District \_\_\_\_\_

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

- |   |  |
|---|--|
| Project located in Appeal Jurisdiction                                    | Project <u>not</u> located in Appeal Jurisdiction                        |
| <input type="checkbox"/> Major Development (Public Hearing required)      | <input type="checkbox"/> Public Hearing Required (due to UP, Var., etc.) |
| <input type="checkbox"/> Minor Development (Public Hearing, if requested) | <input type="checkbox"/> No Public Hearing Required                      |

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

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

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

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

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

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

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

Petros Greek cuisine and Lounge  
Name

451 Manhattan Beach Blvd Bldg MB CA 90260  
Mailing Address

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

Petros or Jeanette  
Contact Person (include relation to applicant/appellant)

310-748-4928 or 310-607-0044  
Address, and Phone Number

[Signature]  
Applicant(s)/Appellant(s) Signature

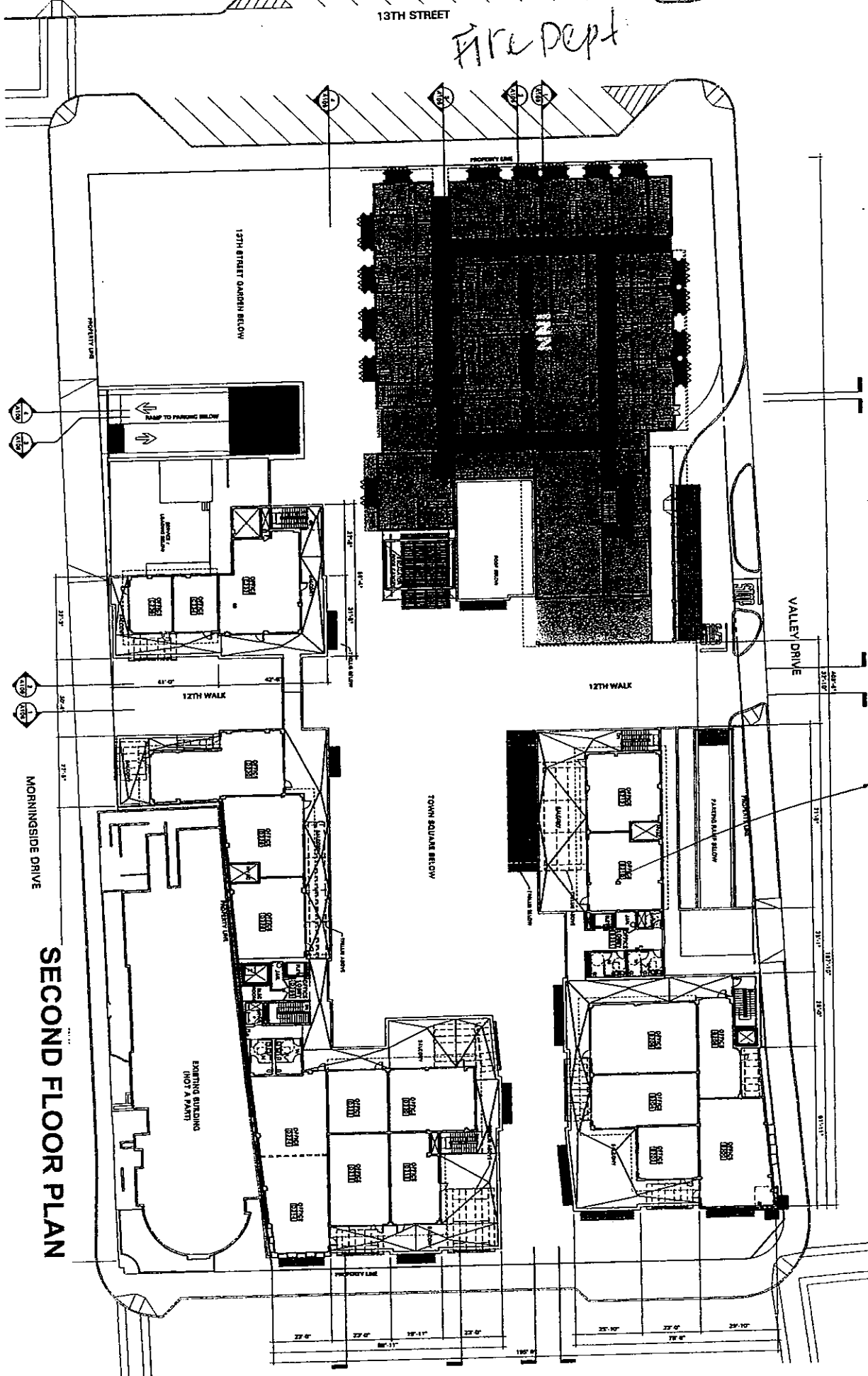
\_\_\_\_\_  
Fax Number and e-mail address

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

SEE ATTACHED

13TH STREET

Fire Dept



SECOND FLOOR PLAN

Petros

MANHATTAN BEACH BLVD.

Department of Alcoholic Beverage Control  
**SUPPLEMENTAL DIAGRAM**

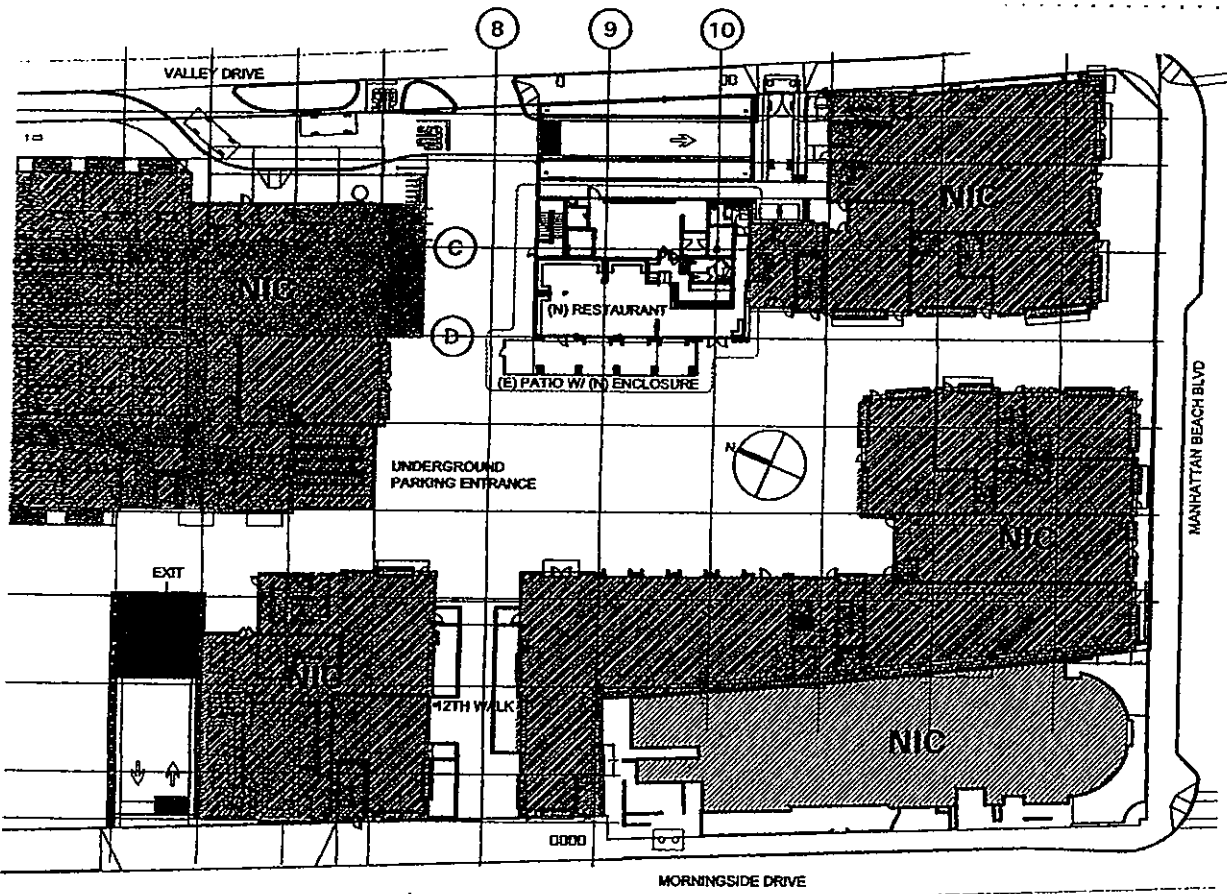
State of California  
ARNOLD SCHWARZENEGGER, Governor

**Instructions to Applicant:**

Draw a sketch of the area on which the licensed premises is or will be located. Show adjacent structures and nearest cross streets. If this is an event for a daily license, catering authorization or miscellaneous use, show the area where sales and consumption of alcoholic beverages will occur. Post a copy of this diagram with Daily License, Catering Authorization or Event Authorization where the event is held. Sales and consumption of alcoholic beverages must be confined to the area designated in the diagram and supervised to prevent violations of the Alcoholic Beverage Control Act.

1. APPLICANT NAME (Last, first, middle) Petros MB, Inc.	2. LICENSE TYPE 47
3. PREMISES ADDRESS (Street number and name, city, zip code) 45 Manhattan Beach Blvd. Ste. B110, Manhattan Beach, CA. 90266	4. NEAREST CROSS STREET Valley Drive

**DIAGRAM**



1 SITE PLAN	SCALE: 1/8" = 1'-0"
-------------	---------------------

I have read the above instructions and I declare under penalty of perjury that the above diagram is true and correct.

APPLICANT SIGNATURE <i>[Signature]</i>	DATE SIGNED 1-21-03
PRINTED NAME Petros Benekos	INSPECTION DATE
RETURNED CORRECT (Signature)	PRINTED NAME



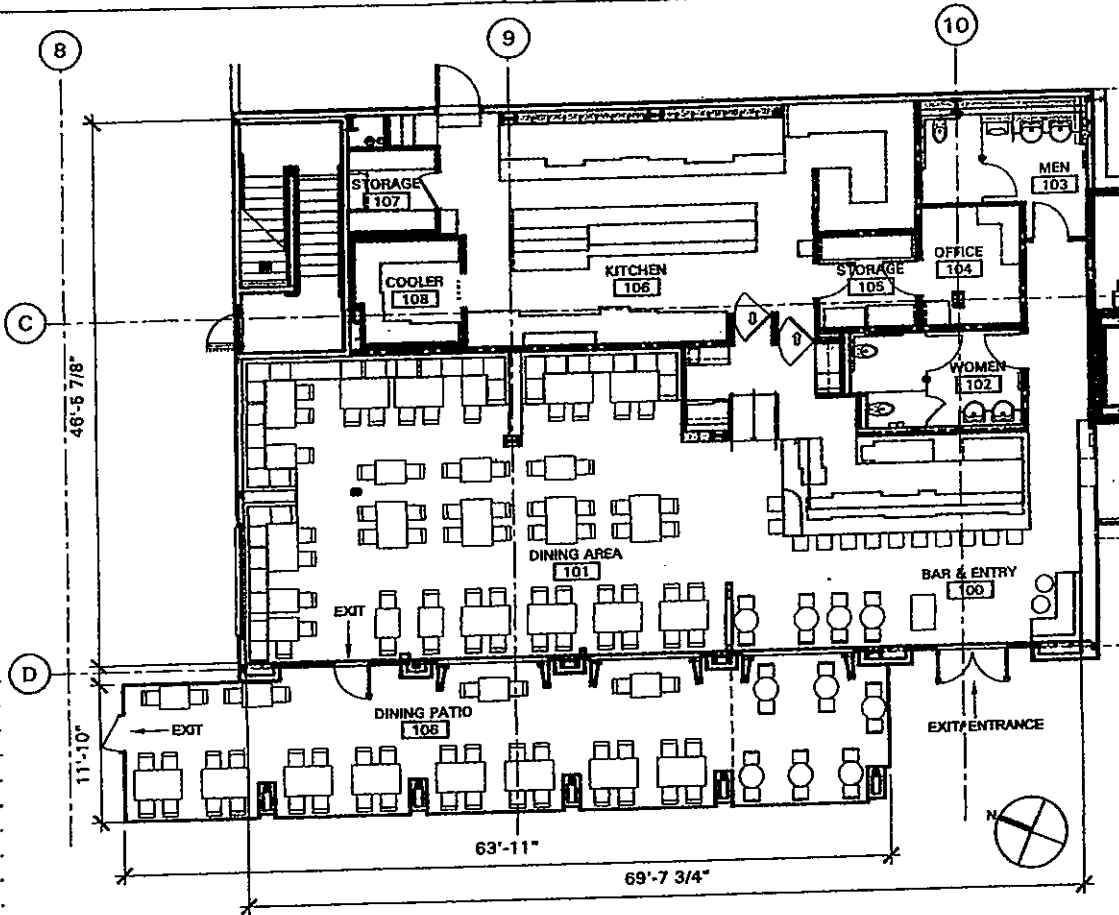
Department of Alcoholic Beverage Control  
**LICENSED PREMISES DIAGRAM (RETAIL)**

State of California  
ARNOLD SCHWARZENEGGER, Governor

1 APPLICANT NAME (Last, first, middle) <b>Petros MB, Inc.</b>	2 LICENSE TYPE <b>47</b>
3 PREMISES ADDRESS (Street number and name, City, zip code) <b>51 Manhattan Beach Blvd. Ste. B110, Manhattan Beach, CA. 90266</b>	4 NEAREST CROSS STREET <b>Valley Drive</b>

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions.

**DIAGRAM**



1 FLOOR PLAN SCALE: 1/16" = 1'-0"

It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required) <i>Petros Benetos</i>	DATE
CERTIFIED CORRECT (Signature)	INSPECTION DATE
PRINTED NAME <b>FOR ABC USE ONLY</b>	

**SURVEY OF DOWNTOWN EATING AND DRINKING ESTABLISHMENTS**

<b>Establishment</b>	<b>Address</b>	<b>Hours of Operation</b>	<b>Alcohol License</b>
900 Manhattan Club	900 Manhattan Ave.	M-Th 11am-12 am F 11am-1 am Sat 9am-12am Sun 9am-12am	Full Liquor
Coco Noche	1140 Highland Ave.	Su-Th 6am-10pm F-Sa 6am-11pm	Beer and Wine
Beaches	117 Manhattan Beach Blvd.	M-F 10am-1am Sa-Sun 8 am-1am	Full Liquor
Café Pierre	317 Manhattan Beach Blvd.	Su-Sa 9am-1am	Full Liquor
Pasta Pomodoro	401 Manhattan Beach Blvd.	Su-Sa 7am-11pm	Beer and Wine
Ebizio	229 Manhattan Beach Blvd.	M-Th 6am - 11pm F-Sa 6am-12am	Beer and Wine
El Sombrero	1005 Manhattan Ave.	Su-Th 7am-11pm F-Sa 7am-12am	Beer and Wine
Ercoles	1101 Manhattan Ave.	Su-Sa 11am-2am	Full Liquor
Fonzs	1017 Manhattan Ave.	Su 9am-9pm M-Th 5:30am-10pm F-Sa 5:30am-11pm	Full Liquor
Francesca	1209 Highland Ave.	M-Th 11am-10pm F-Su 7:30am-11pm	Beer and Wine
Good Stuff (closed 9/05)	1300 Highland Ave.	Su-Sa 24 Hours	Beer and Wine
Hennesseys	313 Manhattan Beach Blvd.	Su-Sa 11am-2am	Full Liquor
Fusion Sushi	1150 Morningside Dr.	Su-W 9am -11pm Th-Sa 7am-12am	Full Liquor
Kettle	1138 Highland Ave.	Su-Sa 24 Hours	Beer and Wine
Mama D's	1125 A Manhattan Ave.	Su-Sa 7am-2am	Beer and Wine
Mangiarno	128 Manhattan Beach Blvd.	Su-Sa 8am-12am	Full Liquor
Manhattan Brewing Company	124 Manhattan Beach Blvd.	Su-Sa 7am-12am F-Sat 7am-1am	Full Liquor
Sharks Cove	309 Manhattan Beach Blvd.	Su-Sa 7am-2am	Full Liquor
Manhattan Pizzeria	133 Manhattan Beach Blvd.	No Reso	Beer and Wine
Michi	903 Manhattan Ave.	Su-T 11am-12am F-Sat 11am-2am	Full Liquor
Octopus	1133 Highland Ave.	M-F 11:30am-2:30pm to 5:30pm-11pm F-Sa 5:30pm-12am	Beer and Wine
Old Venice	1001 Manhattan Ave.	Su-Sa 10am-12am	Beer and Wine
Penny Lane	820 Manhattan Ave.	Su-Th 7am-10:30pm F-Sa 7am-11:30pm	Beer and Wine
Rock N Fish	120 Manhattan Beach Blvd.	Su-Th 7am-12am F-Sa 7am-1am	Full Liquor
Sidedoor	900 Manhattan Ave.	M-Th 11am-12 am F 11am-1 am Sat 9am-12am Sun 9am-12am	Full Liquor
Shellback	116 Manhattan Beach Blvd.	No Reso	Full Liquor
Sun & Moon Café	1131 Manhattan Ave.	Su-Th 6am-11pm F-Sa 6am-12am	Beer and Wine
Talia's	1148 Manhattan Ave.	Su-W 7am-11pm Th-Sa 7am-12am	Full Liquor

**EXHIBIT**

**C**

Towne	1142 Manhattan Ave.	M-W 11am-11pm Th-F 11am-12am Sa 7am-12am Su 7am-11pm	Full Liquor
Chakra	304 12th Street	Su-Th 10am-12am F-Sa 10am-1am	Full Liquor
Wahoo's	1129 Manhattan Ave.	Su-Th 6am-11pm F-Sa 6am-12am	Beer and Wine
Avenue	1141 Manhattan Ave.	Su-Th 11am-11pm F-Sa 11am-12am	Full Liquor
Shade Hotel	1221 Valley Drive	Lobby Bar- daily 5pm-11pm Courtyard Su-Th 6am-11pm F- Sat 6am-12am Roofdeck daily 6am-10pm	Full Liquor
Petro's	451 Manhattan Beach Blvd Suite B-110	Su-Th 6am-11pm F-Sa 6am-12am	Full Liquor
Jr.'s Deliboy	451 Manhattan Beach Blvd Suite D-126 1200 Morningside	Su-Th 6am-11pm F-Sa 6am-12am	Full Liquor

G:/Planning/Ledger/Downtown Alcohol & Hrs List  
07/11/06

RESOLUTION NO. 5770

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A NEW COMMERCIAL DEVELOPMENT, PUBLIC AREAS, AND RELATED IMPROVEMENTS, AT THE METLOX SITE- 1200 MORNINGSIDE DRIVE (Metlox, LLC c/o Tolkin Group)

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach, California, hereby makes the following findings:

- A. Metlox, LLC c/o Tolkin Group is seeking approval of a Master Use Permit and Coastal Development Permit, to allow the construction of a new commercial development, public areas, and related improvements, at the Metlox site- 1200 Morningside Drive in the City of Manhattan Beach.
- B. In accordance with the Manhattan Beach Local Coastal Program (MBLCP) a Use Permit approval is required for the project in the Downtown Commercial Zone.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, in the non-appealable area, and is subject to a Coastal Development Permit.
- D. The applicant is Metlox, LLC c/o Tolkin Group and the property owner is the City of Manhattan Beach.
- E. The following is a summary of some of the key milestones for the Metlox site:
- 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
  - 1997/98- The City purchased the Metlox property to control development and Master Plan the site
  - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
  - December 1998- The City selected the Tolkin Group as a development partner based on a project consisting of 141,000 square feet - project size reduced several times over the years due to public concern and the project proposed is 63,850 square feet
  - April 2001- The City Council certified the EIR and directed Staff and the Tolkin Group to work together to revise the project to:
    - Reduce the size to 60-65,000 square feet
    - Reduce the height to 26 feet, and
    - Consider reducing the height or eliminating the Lookout Tower
  - April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
  - May 2002- The City Council approved two levels of public parking on the Metlox site
  - June 2002- Application for a Master Use Permit and Coastal Development Permit for the Metlox site submitted
- F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of June 26, 2002 and continued the public hearing to July 10, 2002. The public hearings were advertised pursuant to applicable law and testimony was invited and received. At the meeting of July 10, 2002, the Planning Commission adopted Resolution No. PC 02-17 determining compliance with the California Environmental Quality Act (CEQA) and a previously certified Environmental Impact Report which includes Mitigation Measures and a Mitigation Monitoring Program, and adopting a Statement of Overriding Considerations, Resolution No. PC 02-18, approving the Master Use Permit and Coastal Development Permit for the commercial development and the public areas, and Resolution No.



PC 02-19, approving the Master Use Permit and Coastal Development Permit for the subterranean public parking structure. All decisions set forth in those resolutions are based upon substantial evidence received at said public hearings.

- G. The City Council of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meetings of July 16, 2002. The public hearing was advertised pursuant to applicable law and testimony was invited and received. All decisions set forth in this resolution are based upon substantial evidence received at said public hearing.
- H. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, public Library and on the City's website. On June 26 and July 10, 2002 the Planning Commission held public hearings to discuss the proposed project, including the Master Use Permit, Coastal Development Permit, and compliance with the requirements of CEQA. On July 10, 2002 the Planning Commission adopted Resolution No. PC 02-17 determining the project is in compliance with CEQA, and adopting a Statement of Overriding Considerations with regard to unavoidable significant impacts.
- H. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the properties to the north are zoned Downtown Commercial and Public and Semipublic, and the properties to the east are zoned Open Space.
- I. The General Plan designation for the property is Downtown Commercial.
- J. The proposed project will provide a new approximate 63,850 square foot commercial development and approximately 40,000 square feet of public areas. A separate Master Use Permit and Coastal Development Permit for approximately 430 subterranean public parking spaces on the project site is proposed. Street improvements were approved with the Public Safety Facility Use Permit and Coastal Development Permit, including the extension of 13<sup>th</sup> Street as a two-way street from Morningside Drive east to Valley Drive, conversion of Valley Drive from one-way southbound traffic to two-way traffic between 13<sup>th</sup> and 15<sup>th</sup> Streets, and conversion of Morningside Drive to one-way northbound traffic between Manhattan Beach Boulevard and 13<sup>th</sup> Street.
- K. The existing surface parking lot at 1148 Morningside Drive, approximately 400 square feet in area and located south of the Metlox loading area, may be added to the project site to provide a pedestrian and/or vehicular entryway into the project from Morningside Drive. The City is currently in the process of negotiating the purchase of the parking lot site. This may result in more than three buildings being included in the project however the total approved square footage (63,850 square feet) would not be exceeded. The total parking provided in the subterranean public parking structure would increase by approximately 28 spaces.
- L. Construction of the commercial buildings and public areas are anticipated to take approximately 10 months beginning in October 2003, with completion in August 2004. Prior to construction of the commercial building and the public areas, the subterranean parking structure will be constructed, with construction anticipated from January 2003 through October 2003.
- M. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- N. This Resolution, upon its effectiveness, constitutes the Master Use Permit and Coastal Development Permit for the subject property.
- O. Based upon State law, and MBLCP Section A.84.050, relating to the Master Use Permit application for the proposed project, the following findings are hereby made:
  - 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 since, the proposed Metlox project is consistent with the Downtown Commercial (CD) Zone purpose in that the appearance and

effect of the buildings are harmonious with the character of the area in which they are located. The building materials, scale, roof pitches, and details are compatible with the existing Downtown environment, the Civic Center, and the surrounding commercial and residential uses. The scale and articulation of the façade of the proposed structures consistent with the surrounding residential and commercial area, which has 1 to 3 stor, buildings, approximately 30 feet in height. The Metlox project is primarily 2-story, 26 feet in height with limited architectural features up to 30 feet in height, with the possibility of a limited 3<sup>rd</sup> story for the Inn.

The parking and loading facilities are adequate in that they will expand the existing onsite parking and will exceed the parking demand. The buildings are also pedestrian oriented, providing doors and windows at the sidewalk and Plaza, and maintaining pedestrian links within the site and to the Civic Center and other surrounding sites which then link to parks, open space and the beaches.

The project provides a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the city and region. Metlox will strengthen the city's economic base, but also protect small businesses that serve city residents. The project is intended to create a suitable environment for various types of commercial uses, and protect surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts. Additionally the Metlox project is intended to accommodate a broad range of community businesses and serves beach visitors.

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 since, the Metlox project is consistent with the following General Plan Goals and Policies. Additionally, since the project is consistent with the Local Coastal Program (LCP), as discussed below, and since the LCP is consistent with the General Plan, the project is also consistent with the General Plan.

#### **GOALS AND POLICIES: LAND USE**

**GOAL 1:** MAINTAIN THE LOW PROFILE DEVELOPMENT AND SMALL TOWN ATMOSPHERE OF MANHATTAN BEACH.

**Policy 1.1:** Limit the height of new development to three stories where the height limit is 30 feet or to two stories where the height limit is 26 feet, in order to protect the privacy of adjacent properties, reduce shading, protect views of the ocean, and preserve the low profile image of the community.

**Policy 1.2:** Require the design of all new construction to utilize notches, or balconies, or other architectural details to reduce the size and bulk.

**Policy 1.3:** Require the use of landscaping and setbacks to reduce the bulk in new buildings and add visual interest to the streetscape.

**Policy 2.3:** Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

**GOAL 3:** ENCOURAGE THE PROVISION AND RETENTION OF PRIVATE LANDSCAPED OPEN SPACE.

**Policy 3.1:** Develop landscaping standards for the Downtown which serve as a unifying and humanizing theme for the area.

Policy 3.3: Encourage the replacement of mature trees removed by new construction activity throughout the City with specimen trees.

Policy 4.1: Protect all small businesses throughout the City which serve City residents.

Policy 5.1: The City recognizes the need for a variety of commercial development types and has designated areas appropriate for each. The City shall encourage development proposals which meet the intent of these designations.

Policy 5.2: Require the separation or buffering of low-density residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, and other techniques.

GOAL 6: CONTINUE TO SUPPORT AND ENCOURAGE THE VIABILITY OF THE "DOWNTOWN" AREA OF MANHATTAN BEACH.

Policy 6.1: Encourage the upgrading and expansion of business in the Downtown area to serve as a center for the community and to meet the needs of beach area residents.

Policy 6.2: Develop and encourage the use of design standards for the Downtown area to improve its visual identification as a unique commercial area.

GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

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 since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy.
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. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the Mellox commercial development and public areas portion of the EIR will all be complied with. Conditions to conform to applicable Code standards will apply. A temporary construction plan will ensure that construction impacts will be minimized to the extent feasible.

P. Based on the MBLCP Sections A.96.150 the following findings are made:  
That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program, since the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

#### **COASTAL ACCESS POLICIES**

##### **A. Access Policies**

Policy I.A.1: The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone.

Policy I.A.3: The City shall preserve pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walkstreets and public open spaces. See Figure NR-1 of the General Plan).

**B. Transit Policies**

Policy I.B.3: The City shall encourage pedestrian and bicycle modes as transportation means to the beach.

**II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES**

Policy II.1: Control Development within the Manhattan Beach coastal zone.

**A. Commercial Development**

Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.

Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.

Policy III.3: The City should continue to maintain and enforce the City ordinances that prohibit unlawful discharges of pollutants into the sewer system or into the tidelands and ocean. (Title 5, Chapter 5, Article 2; Chapter 8).

Policy III.14: City Storm Water Pollution Abatement Program: The City of Manhattan Beach has initiated a storm water pollution abatement program that involves not only several of the City departments working together, but also the other cities in the Santa Monica Bay watershed. The initial action plan was to create a new ordinance regarding illegal dumping to catch basins and the storm drain systems. In the process it was found that a number of ordinances already exist on the books that cover most of the original concerns. It was determined that those significant codes contain strong enforcement capabilities and that the present city staff needs to be educated and made aware of those existing codes, some of which date back to the 1920's but are still enforceable. The program is to develop codes and building standards to implement the Good Housekeeping requirement and the Best Management Procedures of the Santa Monica Bay Restoration Project Action Plan, educate staff, eliminate potential loopholes within the existing code sections, and initiate supplemental ordinances regarding storm water pollution abatement giving the County the right to prosecute polluters to the County storm drain system (a requirement of the Santa Monica Bay storm way discharge permit).

The Final EIR for the Civic Center/Metlox project also provides a discussion on consistency with the policies of the LCP.

**SECTION 2.** The City Council of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit and Coastal Development subject to the following conditions.

***General Conditions***

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the City Council on July 16, 2002, subject to any special conditions set forth below. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

***Site Preparation/Construction***

2. A Traffic Management and Construction Plan shall be submitted in conjunction with any construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including but not limited to delivery of materials and parking of construction related vehicles.



3. During the demolition and construction phases of development, a daily clean-up program for all areas affected by the project shall occur, including the pickup of all debris (utilizing an approved trash dumpster or other trash control method) at day's end and the sweeping and continued watering down of the site to assist in mitigating the movement of dirt and dust upon adjoining properties.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department. Existing utility poles and lines on the project site and immediately adjacent to the project site, not including any across any street, must be placed underground pursuant to the requirements of Public Works.

**Operational**

5. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
6. Plans shall be submitted to the Director of Community Development for review and approval that shows all proposed rooftop mechanical equipment screened from the public right-of-way in accordance with the requirements of the MBMC. Equipment and screening may be incorporated into the architectural features allowed on the buildings. Equipment shall be installed per the approved plans prior the building permit final.
7. Post construction (operational) noise emanating from the site shall be in compliance with the Manhattan Beach Municipal Code Noise Ordinance, Chapter 5.48.
8. Delivery operations shall be conducted in such a manner so as not to be in violation of the city's noise ordinance. The term "delivery activities" shall include, vehicles or delivery equipment being started or idled, playing of radios, tape players or other devices, loud talking, and unloading of materials. Business delivery doors shall not be opened before hours of permitted deliveries as specified herein. Delivery vehicles shall park in designated commercial loading areas only and shall not obstruct designated fire lanes.
9. Landscaping and maintenance activities (including, but not limited to parking lot cleaning, grounds-keeping, and outdoor equipment cleaning) shall occur in accordance with a Landscape Maintenance Plan to be approved by the Director of Community Development. The Maintenance Plan shall establish permitted hours of operation for specific maintenance activities and areas of site, based on compatibility with nearby land uses, both on and adjacent to the center.
10. All landscaping materials shall be maintained to the satisfaction of the Director of Community Development.
11. Routine trash collection on the entire site shall be consistent with the hours that are specified in the City's trash contract (which is currently after 7:30 a.m. and before 6:00 p.m.), unless other hours are approved by the Public Works Director. Construction material trash collection activities (drop off and pick-up) shall be limited to hours of permitted construction as specified in the City's Noise Ordinance, which is between 7:30 and 6:00 p.m. Mondays through Fridays, and between 9:00 a.m. and 6:00 p.m. on Saturdays.
12. All trash storage areas shall be screened, secured and maintained in a sanitary condition and all tenants/business owners shall take appropriate measures to prevent prohibited or undesirable activities as defined in the Municipal Code (Sec. 5.24.060) including but not limited to, scavenging, excessive accumulation of refuse, and allowing any portion of the property to become a breeding ground for flies, wild rodents or other pests. Trash storage areas shall be designated and bins shall be maintained within the designated areas.
13. The facility operator shall prohibit employees from parking personal vehicles on the surrounding public streets. Employees must park on-site or be transported to the site from other off-street parking

facilities subject to Community Development Department approval. The property owner shall include prohibitions against employee parking on local streets in any lease and/or rental agreements.

14. The operators of the facility shall police the property, and all areas immediately adjacent to the businesses, during the hours of operation to keep it free of litter.
15. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
16. Public bicycle parking shall be incorporated into the design of the project. Plans shall be submitted to the Director of Community Development for review and approval showing the bicycle parking.
17. Safety and security features shall be incorporated into the design of the project. The Security Plan shall be submitted to the Police Chief and Director of Community Development for review and approval. The Security Plan shall include but not be limited to, security lighting.
18. The applicant shall make every effort to provide shower facilities for use by the office tenants. The facilities shall be shown on the plans and installed prior to the issuance of a Certificate of Occupancy.
19. The applicant is required to eliminate any Congestion Management Plan (CMP) debits created by the project prior to the issuance of a Building Permit for the Commercial buildings.
20. All tenants in the project are encouraged to join the Downtown Business Association.

#### ***Public Works***

21. The plans shall be checked and stamped for approval by the Public Works Department before the building permit is issued. Project must comply with all Public Works requirements. All Public Works notes and corrections must be printed on the plan and all requirements must be completed per the approved plans prior to the issuance of a building final.
22. The new trash enclosure(s) shall meet all Public Works requirements. Trash must be picked up by a refuse company as often as necessary to ensure that the trash enclosure has adequate space to accommodate the needs of the entire site. No trash storage/disposal shall be placed in the public right-of-way on Manhattan Beach Boulevard, Morningside Drive, 13<sup>th</sup> Street or Valley Drive.
23. No outside cleaning of kitchen floor mats or other items will be permitted on the site. All kitchen floor mats and other items shall be cleaned in such a manner that the run-off wastewater drains only to private sewer drain on the premises.
24. There shall be no discharge of construction wastewater, building materials, debris, or sediment from the site.

#### ***Land Use***

25. The following land uses and maximum square footages, as defined and approved by the DDA/Ground Lease, and shall allowed:
  - A) Retail Sales and services, including food service uses, 20,000 square feet total maximum, including:
    - a) Retail sales;
    - b) Personal Services;
    - c) Retail/specialty food service uses that are non-destination type establishments such as a bakery, tea salon, coffee house, ice cream shop, yogurt, candy, cookies, juices, and other similar limited specialty food items. Each business is limited to a maximum of 300 square feet of outdoor seating area, including table, chairs and benches, within the Town Square and Public Areas-; and,
    - d) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.

- B) Eating and Drinking Establishments (restaurants), two (2) total maximum, 8,000 square feet total maximum, (including 6,400 square feet maximum dining/seating area regardless of whether located indoors or outdoors).
- C) Offices, however no offices shall be permitted on the first floor, and Personal Services, 17,500 square feet total maximum, including;
- a) Offices, Business and Professional;
  - b) Personal Services; and,
  - c) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
- D) Visitor Accommodations (Bed and Breakfast Inn), 35 to 40 rooms, 26,000 square feet total maximum.
26. Uses identified as conditionally permitted (use permit required) in the underlying zoning district (CD) shall require an amendment to the Master Use Permit at a duly noticed public hearing, unless otherwise permitted in this Resolution.
27. There shall be no drive-through service allowed in conjunction with any Eating and Drinking Establishment (restaurant) or any other use.
28. The Inn may provide wedding, party, and other special event services in their Courtyard, Meeting Room, and Living Room, as a secondary service to the primary Inn use. These types of events are limited to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday. Events are limited to a maximum of 60 people, or whatever the maximum occupancy is as determined by the Building or Fire Code limits, whichever is less. The Director of Community Development may approve Temporary Use Permits for events which exceed 60 people, not to exceed the maximum occupancy as allowed by the Building or Fire Code limits. Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The availability of the Inn for special events shall not be marketed as the primary use.
29. The hours of operation for the site shall be permitted as follows:
- Restaurant, food service, retail and personal service: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday.
  - Offices: Up to 24 hours
  - Town Square and Public Areas: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, seasonal, depending on weather.
30. The second floor roof deck with the jacuzzi at the Inn shall be redesigned. The floor level of the roof deck may not exceed 21 feet in height, and the deck area must be properly screened. The deck area may only be open for use from 6:00 am to 10:00 pm, seven days per week
31. Any outdoor uses in the Town Square and Public Areas shall meet all access and safety requirements of the Uniform Building and Fire Codes and any other similar safety regulations. Retail and food service carts or kiosks may be allowed subject to review and approval of the City Manager. Standard liability insurance naming the City as additionally insured shall be provided and subject to approval of the Director of Community Development. Insurance shall meet approval of the City's Risk Manager and shall be as set forth in the DDA/Ground Lease (currently a minimum \$3 million insurance endorsement). Tenants with said outdoor uses shall be responsible for maintaining the area clean and free of trash and debris.
32. A restroom shall be available to the public at all times when the non-office uses are open to the public. Adequate signage to direct the public to the restroom(s) shall be provided throughout the Town Square and public areas, subject to review and approval of the Director of Community Development. The tenant or building owner, not the City, shall be responsible for maintaining and securing the restroom(s).

**Design Review**

33. The applicant shall submit plans, material boards, color samples, renderings, and other visual displays for Design Review to the Planning Commission at a noticed public hearing prior to issuance of building permits for the commercial buildings. The general location of the building footprints, as shown on the plans approved by the Planning Commission on July 10, 2002, are approved with this Master Use Permit and Coastal Development Permit and are not subject to Design Review. The plans shall address the following design issues and details:

- Facades/elevations
- Colors, textures, and materials
- Landscaping, lighting, signage, and public art
- Gateway treatment
- Town Square, 13<sup>th</sup> Street Garden and Public areas
- Civic Center linkage, relationship and compatibility
- Streetscape design- pavement treatment, sidewalks, pedestrian crosswalks, street furniture
- Pedestrian orientation
- Incorporation of the Metlox sign

The plans and details shall address linkage to the Downtown and the Civic Center, pedestrian orientation, the Downtown Design Guidelines, the City's vision for the site, access from Morningside Drive near 12<sup>th</sup> Street (12<sup>th</sup> Walk), and other design details of the project. The possibility of limited 3<sup>rd</sup> story rooms for the Inn will be considered.

34. A sign program in accordance with the requirements of the MBMC shall be submitted for review and approval of the Director of Community Development. Signage shall be consistent with the Downtown Design Guidelines and the conceptual plans submitted for Design Review. Signs shall be installed per the approved plans prior the building permit final.
35. An outdoor lighting program shall be submitted for review and approval of the Director of Community Development. Outdoor lighting shall be shielded and meet all other requirements of the MBMC and shall be consistent with the plans submitted for Design Review. Lighting shall be installed per the approved plans prior the building permit final.
36. A site landscaping plan, utilizing drought tolerant plants to the extent feasible, shall be submitted for review and approval. The landscaping shall be in compliance with the Downtown Design Guidelines and the requirements of the MBMC. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area. This plan shall be reviewed and approved by the Public Works and Community Development Departments. Landscaping shall be installed per the approved plans prior to the building permit final.
37. A low pressure or drip irrigation system shall be installed in landscaped areas. Details of the irrigation system shall be noted on the landscape plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments. Irrigation shall be installed per the approved plans prior to the building permit final.

**Alcohol**

38. The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation. The Inn may provide beer and wine service for its guests only, and may also provide full liquor self-service in room "mini-bars". Sale of alcoholic beverages for consumption off-premise is not approved with this Master Use Permit. This approval shall operate within all applicable State, County and City regulations governing the sale of alcohol prior to the start of business operations. Any violation of the regulations of the Department of Alcohol and Beverage Control as they pertain to the subject location, or of the City of Manhattan Beach, as they relate to the sale of alcohol, may result in the revocation and/or modification of the subject Master Use Permit.
39. Restaurant uses, including the service of alcoholic beverages, shall be limited in their operation to the hours between 6:00 a.m. to 11:00 pm, Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday.

### Entertainment

40. Dancing and amplified live music is prohibited within the business establishments. Non-amplified live music or entertainment, limited to background-type music, with a maximum of 2 entertainers is permitted. Any live entertainment proposed in conjunction with any use (with exception of background music, television and no more than 3 games or amusements per business establishment) shall require a Class I annual Entertainment Permit consistent with the provision of Section 4.20.050 of the Manhattan Beach Municipal Code. The Entertainment Permit shall be submitted to the Director of Community Development for review and approval, with input from the Police and Fire Departments. Appropriate conditions shall be placed on the Permit to minimize potential negative impacts. These conditions shall include, but not be limited to, hours, size and location of performance or dance area, size of band and number of performers, numbers of performance days per week, type and location of amplification, speakers and soundproofing, and volume of amplification. The Permit will be reviewed annually to determine if it is appropriate to renew the permit, deny the permit, or modify the conditions of approval.

### Procedural

41. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.
42. Fish and Game. 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.
43. Lapse of Approval. The Master Use Permit shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
44. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.
45. Effective Date. Unless appealed to the City Council, the subject Master Use Permit and Coastal Development Permit shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
46. Review. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
47. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
48. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
49. Assignment. Pursuant to Section A.96.220 of the City's certified Local Coastal Program (Implementation Program), the Coastal Development Permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development.
50. Legal Fees. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action associated with the approval of this project brought against the City. In the event such a legal action

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

***Mitigation Measures (CEQA)***

The following Mitigation Measures as identified in the EIR, and as discussed within Resolution No. 5769 adopted July 16, 2002, determining compliance with CEQA, are applicable to the Metlox project.

**51. AESTHETICS/VIEWS**

The project shall be developed in conformance with the following City of Manhattan Beach Downtown Design Guidelines:

- A. Where feasible, incorporate landscaped areas into new development and existing development. Such landscaped areas could utilize window boxes and similar landscape amenities. Landscaping should be designed to enhance and accentuate the architecture of the development.
- B. Signs should be designed at a scale appropriate to the desired village character of downtown. The size and location of signs should be appropriate to the specific business. Pre-packaged "corporate" signs should be modified to a scale and location appropriate to the desired village character of downtown Manhattan Beach. Signs should not block, or obliterate, design details of the building upon which they are placed. Pedestrian oriented signage is encouraged. Such signs may be located on entry awnings, directly above business entrances, and "hanging signs" located adjacent to entrances.
- C. Low level ambient night lighting shall be incorporated into the site plans to minimize the effects of light and glare on adjacent properties.

**52. Air Quality**

- A. The construction area and vicinity (500-foot radius) shall be swept and watered at least twice daily.
- B. Site-wetting shall occur often enough to maintain a 10 percent surface soil moisture content throughout all site grading and excavation activity.
- C. All haul trucks shall either be covered or maintained with two feet of free board.
- D. All haul trucks shall have a capacity of no less than 14 cubic yards.
- E. All unpaved parking or staging areas shall be watered at least four times daily.
- F. Site access points shall be swept/washed within thirty minutes of visible dirt deposition.
- G. On-site stockpiles of debris, dirt, or rusty material shall be covered or watered at least twice daily.
- H. Operations on any unpaved surfaces shall be suspended when winds exceed 25 mph.
- I. Car-pooling for construction workers shall be encouraged.

**53. PUBLIC SAFETY**

Although no significant impacts upon public safety (police services) have been identified, the following mitigation measures shall be implemented to further reduce the risk to public safety.

- A. Prior to the issuance of building permits, project site plans should be subject to review by the Manhattan Beach Police Department and Manhattan Beach Fire Department. All recommendations made by the Manhattan Beach Police Department and Manhattan Beach Fire

Department relative to public safety (e.g. emergency access) should be incorporated into the project prior to project completion.

- B. Prior to the approval of the final site plan and issuance of each building permit, plans shall be submitted to the Manhattan Beach Police Department for review and approval for the purpose of incorporating safety measures in the project design, including the concept of crime prevention through environmental design (i.e., building design, circulation, site planning, and lighting of parking structure and parking areas). Design considerations should include an evaluation of electronic surveillance systems, emergency call boxes and lighting systems in addition to architectural elements that allow direct vertical and horizontal views outside of the structure.
- C. The provision of an on-site valet attendant and/or patrol by private security officers during operation of the project shall be considered at peak parking demand times, as needed. This mitigation measure shall be incorporated into the conditions of project approval (i.e., Master Land Use Permit or Development Agreement) at the discretion of the City Council.

#### 54. RISK OF UPSET

Potential impacts associated with the release of potentially hazardous substances during demolition activities can be mitigated to a level of insignificance by the following mitigation measure:

- A. Comprehensive surveys for asbestos containing materials (ACMs), lead based paint, and Poly Chlorinated Biphenyls (PCBs) shall be conducted by a registered environmental assessor for each existing on-site structure to be demolished or renovated under the proposed project. ACMs, lead based paint, or PCBs found in any structures shall be stabilized and/or removed and disposed of in accordance with applicable laws and regulations including, but not limited to, SCAQMD Rule 1403 and Cal OSHA requirements.
- B. If during construction of the project, soil contamination is suspected, construction in the area should stop and appropriate Health and Safety procedures should be implemented. The Department of Toxic Substances Control (DTSC) Voluntary Cleanup Program (VCP) should be contacted at (818) 551-2866 to provide the appropriate regulatory oversight.

#### 55. TRANSPORTATION AND CIRCULATION

##### REQUIRED MITIGATION MEASURES

The following traffic-related mitigation measures are required to mitigate potentially significant project-related traffic impacts:

- A. Prior to any construction activities, a Construction Plan, which shall include phasing of construction of the project, shall be submitted for review and approval to the City of Manhattan Beach Public Works Department and Community Development Department. Construction Plans shall address parking availability and minimize the loss of parking for existing on-site Civic Center operations that will continue to operate throughout the construction period, as well as provide parking for Civic Center visitors and construction workers. To minimize potential adverse impacts upon the Downtown Commercial District construction workers shall not be permitted to park within in the adjacent public parking structures or street parking spaces. The parking plans shall provide adequate on-site parking areas for construction workers and/or consider providing additional construction parking at off-site parking lot locations and providing bussing or car-pool services to the construction site. The proposed construction plan shall designate appropriate haul routes into and out of the project area. Truck staging areas shall not be permitted on residential roadways or adjacent to any school site.
- B. Manhattan Beach Blvd. & Sepulveda Blvd. -Contribute to the installation of dual left-turn lanes in the northbound and eastbound directions. A fair-share contribution will be required. The City is currently actively pursuing implementation of this Mitigation Measure. These projects are identified in the City's 2004-2005 Capital Improvement Program (CIP). The City is currently in the process of having engineering studies conducted for the design of the dual left-turn lanes. A

Grant application will be submitted to the Metropolitan Transportation Authority (MTA) in their Call-for-Projects after completion of the engineering study.

- C. Highland Avenue & 13th Street -Install a two-phase signal at this intersection if warranted based on actual traffic counts taken after the project is developed. The implementation of peak-hour southbound left-turn restrictions at this intersection is another option to mitigate project impacts as this restriction would improve traffic flow through this intersection, as it would reduce northbound through and southbound left-turn conflicts, and allow for the free flow of southbound traffic. In addition, the conversion of 13th Street to a one-way eastbound scheme is another option.
- D. Manhattan Beach Blvd. & Valley Drive/Ardmore Ave. -Install a dual southbound left-turn lane at this intersection at such a time that two left turn lanes are warranted based on actual traffic counts.
- E. The City Traffic Engineer shall conduct secondary "post-project" traffic assessments at the intersections of Highland Avenue & 13th Street, and Manhattan Beach Boulevard & Valley Drive/Ardmore Avenue to determine the actual traffic impacts of the proposed project. Should the results of this assessment verify significant impacts are realized, the mitigation measures recommended in the Draft EIR, or measures of equivalent effectiveness shall be implemented.
- F. An employee parking program shall be required for the Mellox commercial establishments to alleviate the parking demands within the Downtown Commercial District. Potential mitigation options may include satellite parking programs and/or providing tandem parking stalls designated for employees only.

#### RECOMMENDED MITIGATION MEASURES

Although the proposed project will meet the shared parking demand anticipated for the planned development, the following parking mitigation measures are recommended to further increase parking availability on the project site, reduce traffic congestion, and to promote shared parking within the Downtown Commercial District:

- G. Valet parking operations should be considered during peak demand times, as needed. Valet parking operations should utilize tandem parking methods within the parking garage(s) to increase parking availability for the project site.

#### 56. HYDROLOGY/WATER QUALITY

The following mitigation measures would ensure water quality impacts would be less than significant:

- A. The project shall comply with the requirements of the National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharge. Such compliance shall include submittal of a drainage plan to the City of Manhattan Beach Department of Public Works in accordance with the minimum applicable requirements set forth in the Los Angeles County Standard Urban Stormwater Mitigation Plan (SUSMP).
- B. Design criteria for the project should, to the extent feasible, minimize direct runoff to the adjacent streets and alleys by directing runoff from roofs and impervious surfaces to landscaped areas. In addition to reducing runoff volumes, due to infiltration into the soil, landscaped areas may also filter some pollutants from stormwater, such as particulate matter and sediment.
- C. Commercial trash enclosures must be covered so that rainwater cannot enter the enclosure and the trash enclosure must be connected to the sanitary sewer system.



57. NOISE

The following mitigation measures are recommended to reduce noise impacts during the construction phases of the proposed project:

- A. Use noise control devices, such as equipment mufflers, enclosures, and barriers.
- B. Erect a temporary sound barrier of no less than six feet in height around the construction site perimeter before commencement of construction activity. This barrier shall remain in place throughout the construction period.
- C. Stage construction operations as far from noise sensitive uses as possible.
- D. Avoid residential areas when planning haul truck routes.
- E. Maintain all sound-reducing devices and restrictions throughout the construction period.
- F. When feasible, replace noisy equipment with quieter equipment (for example, a vibratory pile driver instead of a conventional pile driver and rubber-tired equipment rather than track equipment).
- G. When feasible, change the timing and/or sequence of the noisiest construction operations to avoid sensitive times of the day.
- H. Adjacent residents shall be given regular notification of major construction activities and their duration.
- I. A sign, legible at a distance of 50 feet, shall be posted on the construction site identifying a telephone number where residents can inquire about the construction process and register complaints.
- J. An annual City permit in accordance with Chapter 4.20 of the MBMC shall be required prior to the installation/setup of any temporary, or permanent, PA or sound system.
- K. The maximum allowable sound level shall be in conformance with Chapter 5.48 of the MBMC.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

SECTION 4. This resolution shall take effect immediately.

SECTION 5. The City Clerk shall certify to the adoption of this resolution; enter it into the original records of the City and thenceforth and thereafter the same shall be in full force and effect.

SECTION 6. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of July 2002.

Ayes:  
Noes:  
Absent:  
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

**USA501**

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**From:** Jonathan Tolkin [jtolkin@tolkingroup.com]  
**Sent:** Tuesday, November 14, 2006 8:38 PM  
**To:** Petros Greek Cuisine & Lounge; Petros Benekos  
**Subject:** Petros Patio Curtains and Awning Approval

Petros

Per our conversation tonight, this email summarizes the approval of Metlox, LLC of the proposed Patio Curtains / Awning Concept. Generally, we all agreed that a well executed system could soften the patio and enhance its elegance for Petros' customers dining experience. Metlox, LLC approves of the Patio Curtains and Awning with the following understanding and conditions:

1. General: Patio Curtains and Awning will generally not remain in there closed position, they will be used to offset the effects of uncomfortable weather conditions for the customers during times when the general public is not siting on the plaza because of the weather. During the day and warm evenings the outdoor patio needs to continue to function like and read as an outdoor patio with trellis, with the Patio Curtains and Awning open.
2. The Awning over the trellis needs to be designed and constructed to appear integral to (or part of ) the trellis. It should be retractable and stay retracted a majority of the time as stated above. Color should be compatible with the trellis and trellis structure. Materials should be soft so that it softens the hard surfaces; plastic is not appropriate.
3. Curtains facing the square. Should stay open as stated above a majority of the time. Color should be compatible with the building color or trellis structure. Materials should be soft so that it softens the hard surfaces; plastic is not appropriate.

Petros please feel free to call if you have any other questions.

Regards

Jon  
for Metlox, LLC

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