



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Fahey and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner

DATE: April 19, 2005

SUBJECT: Consideration of a Planning Commission Recommendation to Approve a Use Permit Amendment to Allow Modification of an Outdoor Patio to Include Beer and Wine Service for an Existing Restaurant at 401 Manhattan Beach Boulevard

RECOMMENDATION:

Staff recommends that the City Council receive and file the decision of the Planning Commission.

FISCAL IMPLICATION:

The existing permit includes use of the right of way for patio dining. The restaurant currently pays \$1 per square foot per month, or approximately \$2,200 per year for commercial use of the right of way. The city will no longer receive this revenue once the dining area is relocated onto private property.

DISCUSSION:

The Planning Commission, at its regular meeting of March 23, 2005, **APPROVED** (3-0 vote, 1 absent) the subject request to amend an existing master use permit for relocation of a portion of restaurant patio area from the public right-of-way to private property, and patio service of beer and wine. The existing restaurant currently has a portion of its outdoor dining area located within the side street (Morningside Dr.) right-of-way. The proposal would shift the patio toward the interior (east) side of the property adjacent to the city's Metlox development. The remainder of the 8,414 square foot commercial building including 2 restaurants and 1 office space would be unchanged. The rear restaurant (Fusion Sushi) will continue to use its existing patio dining area within the public right-of-way without alcohol service.

The Planning Commission determined that the amendment was appropriate since the Downtown area would benefit from the improved continuity with the neighboring Metlox development, and no concerns were evident for beer and wine with patio dining service on private property.

The Planning Commission received some testimony supporting the proposal and no opposition to the project. The project staff report and minutes are attached for reference.

ALTERNATIVES:

The alternatives to the staff recommendation include:

1. **REMOVE** this item from the Consent Calendar, **APPEAL** the decision of the Planning Commission, and direct that a public hearing be scheduled.

Attachments:

Resolution No. PC 05-05

P.C. Minutes excerpt, dated 3/23/05

Staff Report dated 3/23/05

C: Hannah Beers, Pasta Pomodoro
Dana Ireland, Property Owner

RESOLUTION NO. PC 05-05

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AMENDMENT FOR THE MODIFICATION OF AN OUTDOOR PATIO ON THE PROPERTY LOCATED AT 401 MANHATTAN BEACH BOULEVARD (Pasta Pomodoro)

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing, received testimony, and considered an application for a master use permit amendment at its regular meeting of March 23, 2005; for the modification of an existing 450 square foot outdoor dining patio to remove encroaching area and include service of beer and wine on the property legally described as Lots 1 & 2, Block 97, Manhattan Beach Division #2 located at 401 Manhattan Beach Boulevard and 1148/1150 Morningside Drive in the City of Manhattan Beach.
- B. The applicant for the subject project is Pasta Pomodoro, and the owner of the property is Dana Ireland
- C. Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of the CEQA Guidelines.
- D. 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.
- E. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential.
- F. The General Plan designation for the property is Downtown Commercial.
- G. The Local Coastal Program designation for the property is Downtown Commercial. A coastal development permit is not required since the project does not include a building enlargement or increase in intensity of land use classification.
- H. Approval of the patio modification and patio beer and wine service, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working 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 as detailed in the project Staff Report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. A total of 34 parking spaces are required by this use permit. The property shall comply with this requirement by maintaining 34 city merchant parking permits or other equivalent qualifying off-site parking.
- L. This approval supercedes all previous use permit approvals on the site. Applicable conditions from the original master use permit establishing 3 separate commercial tenancies, and an amendment removing an on-site parking lot are included in this approval and shall remain in effect. This Resolution, upon its effectiveness, constitutes the Master Use Permit for the subject

RESOLUTION NO. PC 05-05

property.

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Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject master use permit application subject to the following conditions (*indicates a site specific condition):

Construction/General Operation

1. * The project shall be operated in substantial compliance with the submitted plans as previously approved by the City Council on May 2, 2000, and Planning Commission on March 23, 2005, except that the rear parking lot portion of the plans shall be removed from the site. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. * The facility shall be limited to a maximum of 8,414 square feet of buildable floor area including a maximum of three tenant spaces. Uses permitted at the ground floor level shall be limited to restaurant, retail and personal services. Uses permitted at the upper floor level shall be limited to office, retail, and personal services. No single restaurant operation shall occupy more than 3,000 square feet of building floor area. The front restaurant (if applicable) shall have a maximum of 1,200 square feet of interior seating area and 450 square feet of outdoor seating area. The rear restaurant shall have a maximum of 1,721 square feet of interior seating area, 425 square feet of banquet/entertainment area and 270 square feet of outdoor seating area. Uses permitted at the upper floor level shall be limited to office, retail, and personal services.
3. A Traffic Management 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 delivery of materials and parking of construction related vehicles.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed and maintained 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.
5. Detailed plans shall be provided for Community Development review of all improvements and treatments of outdoor areas adjacent to the building prior to issuance of applicable tenant improvement building permits. Alcohol beverages shall be prohibited in all outdoor areas. No improvements or use of the public right-of-way shall occur until issuance of a corresponding encroachment permit by the City Council. Any areas located between the building and the public sidewalk not used for dining area or entry/exit walkways shall be on-grade landscape planter areas. Any site planting plans shall utilize drought tolerant native plants and shall be submitted for review and approval. A low pressure or drip irrigation system shall be installed in the planting areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
6. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.
7. A covered trash enclosure(s), with adequate capacity shall be provided and maintained on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.

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8. * A total of 34 off-site parking spaces shall be provided for the site. This requirement may be satisfied by city merchant parking permits, or other qualifying off-site parking pursuant to Chapter 10.64 of the Manhattan Beach Municipal Code. Parking permit fees and other parking permit requirements shall be provided in conformance with city/property owner agreements established pursuant to the City Council's direction on July 16, 2002.
9. * Outdoor dining area boundaries shall be clearly delineated with railings or other physical barriers.
10. * All new signs and sign changes shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. A sign program identifying allocation and restrictions of signs shall be submitted to and approved by the Community Development Department prior to the issuance of any sign permits.
11. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
12. Any outside sound or amplification system or equipment is prohibited.
13. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
14. Operations shall remain in compliance with all Fire and Building occupancy requirements at all times. The project shall conform to all disabled access requirements subject to the approval of the Building Official.
15. The management of the property shall police the property and all areas immediately adjacent to the businesses during the hours of operation to keep it free of litter.
16. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
17. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
18. The design and construction of patio, planting, and other on-grade areas to be modified at the site's perimeter shall be coordinated and compatible with adjacent public and private improvements as determined to be appropriate by the Community Development Department. Perimeter locations where drainage improvements are specifically determined to be necessary by the Community Development Director shall be improved prior to any service or consumption of beer and wine at the modified front restaurant patio area.
19. The subject project shall contribute an appropriate "fair share" of funding toward the costs associated with upgrading the Morningside Drive sidewalk abutting the site if such a project is initiated prior to January 1, 2007.

Restaurant Operations

20. * A maximum of 2 tenant spaces shall operate as eating and drinking establishment uses. A maximum of one restaurant may include counter customer service only in combination with a method of food preparation that involves interaction and direction from the customers. This use shall not be considered "take-out" restaurant use. Entertainment and dancing shall be permitted for private parties only, Thursday through Saturday, only within the banquet room located at the lower rear corner of the building. The banquet room shall have no exterior windows, doors, or other openings.

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21. * Hours of operation of the restaurants or other ground level uses shall be as follows:

Front (401 MBB) 7am – 11pm, Daily
Rear (1150 Morningside) 9am – 11pm, Sunday through Wednesday
 7am – 12am, Thursday through Saturday

All outdoor seating areas shall be closed at 10pm daily.

22. Alcohol service shall only be permitted within the enclosed building and approved plan-designated outdoor areas within private property. Alcohol service shall occur only in conjunction with the service of food to patrons except within the single service bar designated on the submitted plans within the rear restaurant. Alcohol service within the front restaurant shall be limited to beer and wine.

Procedural

23. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.

24. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.

25. 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.

26. 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 brought against the City challenging the approval of the project.

27. 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.

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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. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

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 March 23, 2005 and that said Resolution was adopted by the following vote:

AYES: Kuch, Simon, Chairman O'Connor
NOES:None
ABSTAIN: None
ABSENT: Savikas

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary

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1 planters in the revised plans are the same as approved for the original project. He indicated that
2 staff will review the landscaping plans to ensure that the site is fully landscaped with proper
3 vegetation appropriate for the location.

4 In response to a question from Commissioner Simon, Associate Planner Haaland said that there is
5 space available on the parcel across the street from the southern portion of the building for tree
6 planting, and there currently is a slope with some trees in that area.

7 Commissioner Simon said that he would support the extension. He said that while he is
8 sympathetic to the comments of Chairman O'Connor regarding the length of time it has taken for
9 the project to begin and the hardship on the neighbors; however, there has been significant progress
10 shown by the applicant. He said that he is disappointed with the change in design of the building.
11 He indicated that he was very much impressed with the original building design and thought it
12 would be a beautiful addition to the City, but the new design is self serving and not a benefit.

13 Commissioner Kuch indicated that he agrees with the comments of Commissioner Simon.

14 Chairman O'Connor said that the building design is not in the purview of the Commission because
15 it meets Code and the intention of the original approval, however he is disappointed in the redesign.
16 He indicated that he is also disappointed in the lack of definition of the construction schedule in the
17 letter provided to staff by the applicant. He said that there has been recent progress on demolition
18 and some thought on what is hoped to be the construction schedule, but he does not have great
19 reason to believe the applicant will not request a further extension in a year. He said, however, that
20 the required findings that must be met are quite specific, and he does not see that the Commission
21 cannot make those findings. He indicated that he would approve the extension, although he is not
22 entirely comfortable with the project.

23 A motion was MADE and SECONDED (Simon/Kuch) to **APPROVE** the request for a one-year
24 time extension of a master use permit for the property located at 330 South Sepulveda Boulevard.

- 25 AYES: Kuch, Simon, Chairman O'Connor
- 26 NOES: None
- 27 ABSENT: Savikas
- 28 ABSTAIN: None

29
30 Director Thompson indicated that the item will be placed on the City Council's Consent
31 Calendar for their meeting of April 19, 2005.

32
33 **PUBLIC HEARINGS**

34
35 **05/0323.1 USE PERMIT AMENDMENT to Allow Modification of an Outdoor**
36 **Patio to Include Service of Beer and Wine at an Existing Restaurant**

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Located at 401 Manhattan Beach Boulevard (Pasta Pomodoro)

1
2 Associate Planner Haaland summarized the staff report. He stated that the proposal is to relocate
3 an existing restaurant patio from its current location within the right of way to the east side of the
4 site within private property. He indicated that the proposal would also include the addition of
5 beer and wine service on the patio. He said that service of beer and wine is prohibited on the
6 existing patio because of the City’s policy against allowing alcohol service within the right of
7 way, and the original condition would need to be changed to allow beer and wine service on the
8 proposed patio located within private property. He said that outdoor dining is generally
9 encouraged in the downtown area, and no concerns have been expressed regarding allowing beer
10 and wine service on the proposed patio. He stated that the subject establishment is a restaurant
11 rather than a bar and does not include entertainment or a fixed bar area. He indicated that the
12 project is adjacent to City sidewalks along Morningside Drive and MBB; and also to the Metlox
13 project at the east and north sides of the site. He said that a condition has been included in the
14 draft Resolution requiring improvement of substandard drainage at the rear of the site where
15 some water drains from the building towards the Metlox project. He stated that there is also a
16 condition that the proposed railing for the patio along Manhattan Beach Boulevard and the
17 portion along the Metlox project would be required to be compatible in design. He said that a
18 condition is also included requiring the applicant to cooperate with any public improvements that
19 are found to be appropriate to the sidewalk along the Morningside Drive. He commented that
20 staff is suggesting that the Commission approve the subject request.

21 In response to a question from Chairman O’Connor, Associate Planner Haaland indicated that
22 the change in the Use Permit to allow beer and wine service on the patio would only apply to the
23 applicant, and the prohibition of alcohol service would remain for the patio of the adjacent
24 restaurant that would still be located within the right of way.

25 Chairman O’Connor opened the public hearing.

26 **David Crowley**, representing the applicant, stated that the purpose of their request is to involve
27 the restaurant with the Metlox project. He indicated that the eastern portion which is currently
28 landscaped results in disconnection from the Metlox site. He commented that the reason they
29 were attracted to the site was for the potential to be included with the project. He stated that they
30 have had many comments from customers that they would like to be able to have a glass of wine
31 on the patio. He indicated that the establishment is not a bar where people come to sit and drink.

32 In response to a question from Commissioner Simon, **Mr. Crowley** indicated that they would
33 hope to have the patio completed within 60 to 90 days after it is approved.

34 **Martha Andreani**, a resident of the downtown area, said that she is a frequent customer of the
35 restaurant and supports the proposal. She said that beer and wine service on the patio would be
36 beneficial, and the design is compatible with the intent of the downtown strategic plan for patio
37 dining. She said that she would not support the request if the proposal were within the right-of-

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1 way. She indicated that serving alcohol in the perimeter of the property as proposed would help
2 solve enforcement issues.

3 Chairman O'Connor closed the public hearing.

4 Commissioner Simon said that he would support the project.

5 Commissioner Kuch said that the proposal would be an improvement to the establishment.

6 Chairman O'Connor said that he feels the proposal is an improvement to the site. He
7 commented that he is pleased that the applicant is willing to make the investment to bring the
8 patio on private property and out of the right of way.

9 A motion was MADE and SECONDED (Kuch/Simon) to **APPROVE** a Use Permit Amendment
10 to allow modification of an outdoor patio to include service of beer and wine at an existing
11 restaurant located at 401 Manhattan Beach Boulevard (Pasta Pomodoro)

12 AYES: Kuch, Simon, Chairman O'Connor

13 NOES: None

14 ABSENT: Savikas

15 ABSTAIN: None

16 Director Thompson explained the 15 day appeal period and stated that the item will be placed on
17 the City Council's Consent Calendar for their meeting of April 19, 2005.

18 **05/0323.2 ZONING CODE AMENDMENT and LOCAL COASTAL PROGRAM**
19 **AMENDMENT Regarding Residential Lot Mergers**

20 Senior Planner Jester summarized the staff report. She indicated that the Commissioners have been
21 provided with an e-mail from **Don McPherson** that was received by staff after the staff report was
22 completed. She said that typically property owners who merge lots tend not to build to the
23 maximum buildable floor area (BFA) but rather utilize the extra space for yard area and parking.
24 She indicated that the Commissioners had previously indicated that they were interested in
25 pursuing regulations reducing the BFA permitted on merged lots; increasing the setback
26 requirements for merged lots; establishing a Minor Exception process for requests to merge more
27 than two lots; and increasing the garage space requirement for larger homes. She said that notices
28 for the public hearing were also sent to members of the design community as previously requested
29 by the Commission. She said that staff understood that the direction of the Commission was to
30 address the square footage permitted for homes on all oversized lots and not only merged lots in
31 order to prevent them from being built out to the maximum. She indicated that staff feels that all
32 lots would not be treated equally if the regulations did not also apply to existing oversized lots as
33 well as lots that are merged.

34 In response to a question from Commissioner Simon, Senior Planner Jester said that all owners of

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Eric Haaland, Associate Planner

DATE: March 23, 2005

SUBJECT: Master Use Permit Amendment to Allow Modification of an Outdoor Patio to Include Beer and Wine Service for an Existing Restaurant Located at 401 Manhattan Beach Boulevard (Pasta Pomodoro)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the request.

APPLICANT

Pasta Pomodoro
1550 Bryant St. #100
San Francisco, CA 94103

OWNER

Dana Ireland
1 Seacove Drive
Rancho Palos Verdes, CA 90275

PROJECT OVERVIEW

L O C A T I O N

Location

401 MBB & 1148/1150 Morningside Dr., at the northeast corner of Manhattan Beach Boulevard and Morningside Drive (See Site Location Map).

Legal Description

Lots 1 & 2, Block 97, Manhattan Beach Division #2.

Area District

III

LAND USE

<u>General Plan</u> <u>Zoning</u> <u>Land Use</u>	Downtown Commercial CD, Commercial Downtown <u>Existing</u> 8,414 sq. ft. Restaurant/Office Building on 8,170 square foot site	<u>Proposed</u> No Change
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Neighboring Zoning/Land Uses

North	CD/Commercial (Metlox) site
South (across MBB)	CD/Bank
East	CD/Commercial (Metlox) site
West (across Morningside Dr.)	CD/Animal Hospital & Parking Struc.

PROJECT DETAILS

	<u>Proposed (and existing)</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	8,170 sq. ft.	2,700 sq. ft. min
Building Floor Area:	8,414 sq. ft	12,255 sq. ft. max
Height	2-stories existing	30 ft. max.
Setbacks	None	None
Parking:	34 spaces (*)	34 spaces (*)
Hours of Operation:	7am – 11pm (Pasta Pomodoro)	(Same)

(*) - Existing master use permit for entire site requires 34 parking spaces which are provided through city parking permits issued to site tenants.

BACKGROUND

The subject site, presently occupied by two restaurant tenants and one office tenant, received its original use permit approval in 1983 by City Council Resolution No. 4071. Conditions were imposed upon the restaurant requiring maintenance of a minimum of 30 off-site parking spaces and a valet parking program.

In 1992 an entirely new restaurant entitlement was approved for the site that required a total of 34 parking spaces (19 off-site). The off-site parking was allowed to be satisfied in the form of city merchant parking permits.

A master use permit to divide the building into 3 separate tenant spaces was approved in 2000, which currently regulates the development. Outdoor dining areas encroaching into the public right-

of-way were approved for the 2 restaurants within which alcohol service was prohibited. This approval continued the previous 34 parking space requirement for the site.

In 2002, the City purchased the rear portion (parking lot) of the subject site for inclusion into the abutting commercial and public parking development known as the “Metlox” project. The same project parking requirement was maintained through this process and the City Council permitted all 34 spaces to be provided through Downtown parking permits.

DISCUSSION

The submitted plans propose a reconfiguration of the existing 450 square foot patio dining area for the front restaurant of an existing 2-story commercial building. The interior portion of the restaurant and other tenant spaces within the building would not be altered. The modification primarily involves removing the westerly portion of the patio located within the Morningside Drive street right-of-way, and replacing it at the east side of the site within a currently landscaped area of private property. The purpose of the project is to remove all dining area from public property in order to permit service of alcohol on the patio. Beer and wine service is currently permitted for the restaurant use, but is specifically prohibited on the entire patio since a portion is located on public property. The applicant is requesting to retain an approximately 6 square foot area of patio surface within the Morningside Drive right-of-way as a landing area in order to keep the existing patio doorway in place.

The project conforms to all zoning and local coastal program requirements. No additions or construction is proposed except on-grade patio surfacing and railing to match existing. No intensification of use is proposed except for the addition of beer and wine service to existing dining service on an outdoor patio of equal size to that existing. The outdoor dining area shall be limited to 450 square feet as specified in the site’s existing master use permit. Dining service including beer and wine has typically been approved for Downtown restaurant patios located on private property. This particular location has a central, high-traffic orientation away from more sensitive residential district boundaries.

Staff has provided the attached draft resolution approving the project, which contains all relevant existing conditions imposed by the site’s master use permit, and the additional requirements relevant to the subject proposal as follows:

- Edge treatments – The project will involve improvements abutting the Metlox development such as paving, planting, and railing that should be coordinated with the neighboring project to avoid awkward results. Drainage issues at the site boundaries also need to be addressed in the near future. A condition requiring coordination of these issues is proposed.
- Sidewalk improvements along Morningside Drive – The project would involve some work by the applicant in the Morningside Drive right-of-way as the patio area is removed. An

opportunity exists at this time to upgrade the segment of public sidewalk adjacent to the subject site that will lead to an entry point to the Metlox public plaza being completed this summer. Improvements to this previously moderate-use sidewalk would benefit both the Metlox development and the subject commercial building. A condition in the draft resolution requires the applicant to pay a “fair share” portion of such improvements if they do occur in the near future.

- Parking permit agreement – The City and subject property owner established an agreement regarding fees and procedures for the parking permits used by the site for required parking in 2002. A reference to that agreement is included in the proposed amended master use permit.

Neighbor Comments: Staff has received one inquiry, and no comments in response to the project hearing notice.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and adopt the attached resolution of approval.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of CEQA.

ALTERNATIVES

The alternatives to the staff recommendation available to the Planning Commission include:

1. **APPROVE** the project and **ADOPT** a revised Resolution.
2. **DENY** the project subject to public testimony received, based upon appropriate findings, and **DIRECT** Staff to return an appropriate Resolution.

Attachments:

- A. Proposed Resolution No. PC 05-
- B. Site map
- C. Applicant description (NAE)

- D. Existing Use Permit Reso. No. PC 02-29
- E. Project Plans (NAE)

cc: Hannah Beers, Pasta Pomodoro
Dana Ireland, Property Owner

RESOLUTION NO. PC 05-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AMENDMENT FOR THE MODIFICATION OF AN OUTDOOR PATIO ON THE PROPERTY LOCATED AT 401 MANHATTAN BEACH BOULEVARD (Pasta Pomodoro)

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing, received testimony, and considered an application for a master use permit amendment at its regular meeting of March 23, 2005; for the modification of an existing 450 square foot outdoor dining patio to remove encroaching area and include service of beer and wine on the property legally described as Lots 1 & 2, Block 97, Manhattan Beach Division #2 located at 401 Manhattan Beach Boulevard and 1148/1150 Morningside Drive in the City of Manhattan Beach.
- B. The applicant for the subject project is Pasta Pomodoro, and the owner of the property is Dana Ireland
- C. Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of the CEQA Guidelines.
- D. 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.
- E. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential.
- F. The General Plan designation for the property is Downtown Commercial.
- G. The Local Coastal Program designation for the property is Downtown Commercial. A coastal development permit is not required since the project does not include a building enlargement or increase in intensity of land use classification.
- H. Approval of the patio modification and patio beer and wine service, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working 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 as detailed in the project Staff Report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. A total of 34 parking spaces are required by this use permit. The property shall comply with this requirement by maintaining 34 city merchant parking permits or other equivalent qualifying off-site parking.
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1. * The project shall be operated in substantial compliance with the submitted plans as previously approved by the City Council on May 2, 2000, and Planning Commission on March 23, 2005, except that the rear parking lot portion of the plans shall be removed from the site. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. * The facility shall be limited to a maximum of 8,414 square feet of buildable floor area including a maximum of three tenant spaces. Uses permitted at the ground floor level shall be limited to restaurant, retail and personal services. Uses permitted at the upper floor level shall be limited to office, retail, and personal services. No single restaurant operation shall occupy more than 3,000 square feet of building floor area. The front restaurant (if applicable) shall have a maximum of 1,200 square feet of interior seating area and 450 square feet of outdoor seating area. The rear restaurant shall have a maximum of 1,721 square feet of interior seating area, 425 square feet of banquet/entertainment area and 270 square feet of outdoor seating area. Uses permitted at the upper floor level shall be limited to office, retail, and personal services.
3. A Traffic Management 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 delivery of materials and parking of construction related vehicles.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed and maintained 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.
5. Detailed plans shall be provided for Community Development review of all improvements and treatments of outdoor areas adjacent to the building prior to issuance of applicable tenant improvement building permits. Alcohol beverages shall be prohibited in all outdoor areas. No improvements or use of the public right-of-way shall occur until issuance of a corresponding encroachment permit by the City Council. Any areas located between the building and the public sidewalk not used for dining area or entry/exit walkways shall be on-grade landscape planter areas. Any site planting plans shall utilize drought tolerant native plants and shall be submitted for review and approval. A low pressure or drip irrigation system shall be installed in the planting areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
6. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.
7. A covered trash enclosure(s), with adequate capacity shall be provided and maintained on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.

RESOLUTION NO. PC 05-

8. * A total of 34 off-site parking spaces shall be provided for the site. This requirement may be satisfied by city merchant parking permits, or other qualifying off-site parking pursuant to Chapter 10.64 of the Manhattan Beach Municipal Code. Parking permit fees and other parking permit requirements shall be provided in conformance with city/property owner agreements established pursuant to the City Council's direction on July 16, 2002.
9. * Outdoor dining area boundaries shall be clearly delineated with railings or other physical barriers.
10. * All new signs and sign changes shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. A sign program identifying allocation and restrictions of signs shall be submitted to and approved by the Community Development Department prior to the issuance of any sign permits.
11. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
12. Any outside sound or amplification system or equipment is prohibited.
13. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
14. Operations shall remain in compliance with all Fire and Building occupancy requirements at all times. The project shall conform to all disabled access requirements subject to the approval of the Building Official.
15. The management of the property shall police the property and all areas immediately adjacent to the businesses during the hours of operation to keep it free of litter.
16. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
17. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
18. The design and construction of patio, planting, and other on-grade areas to be modified at the site's perimeter shall be coordinated and compatible with adjacent public and private improvements as determined to be appropriate by the Community Development Department. Perimeter locations where drainage improvements are specifically determined to be necessary by the Community Development Director shall be improved prior to any service or consumption of beer and wine at the modified front restaurant patio area.
19. The subject project shall contribute an appropriate "fair share" of funding toward the costs associated with upgrading the Morningside Drive sidewalk abutting the site if such a project is initiated prior to January 1, 2007.

Restaurant Operations

20. * A maximum of 2 tenant spaces shall operate as eating and drinking establishment uses. A maximum of one restaurant may include counter customer service only in combination with a method of food preparation that involves interaction and direction from the customers. This use shall not be considered "take-out" restaurant use. Entertainment and dancing shall be permitted for private parties only, Thursday through Saturday, only within the banquet room located at the lower rear corner of the building. The banquet room shall have no exterior windows, doors, or other openings.

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21. * Hours of operation of the restaurants or other ground level uses shall be as follows:

Front (401 MBB) 7am – 11pm, Daily
Rear (1150 Morningside) 9am – 11pm, Sunday through Wednesday
7am – 12am, Thursday through Saturday

All outdoor seating areas shall be closed at 10pm daily.

22. Alcohol service shall only be permitted within the enclosed building and approved plan-designated outdoor areas within private property. Alcohol service shall occur only in conjunction with the service of food to patrons except within the single service bar designated on the submitted plans within the rear restaurant. Alcohol service within the front restaurant shall be limited to beer and wine.

Procedural

23. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.

24. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.

25. 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.

26. 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 brought against the City challenging the approval of the project.

27. 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.

RESOLUTION NO. PC 05-

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. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

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 March 23, 2005 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary

Site Map
401 Manhattan Beach Blvd.



Existing On-site 8,400 sf Commercial Building



Patio to be removed



Patio to be added

RESOLUTION NO. PC 02-29

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AMENDMENT FOR THE REMOVAL OF AN APPROXIMATELY 4,000 SQUARE FOOT PARKING LOT ON THE PROPERTY LOCATED AT 401 MANHATTAN BEACH BOULEVARD AND 1148/1150 MORNINGSIDE DRIVE (Ireland Miller, Inc.)

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing, received testimony, and considered an application for a master use permit amendment at its regular meeting of August 28, 2002; for the removal of an existing on-site 4,000 square foot parking lot from an existing site which will retain an 8,414 square foot commercial building on the property legally described as Lots 1 & 2, Block 97, Manhattan Beach Division #2 located at 401 Manhattan Beach Boulevard and 1148/1150 Morningside Drive in the City of Manhattan Beach.
- B. The applicants for the subject project are Ireland Miller Inc. and the City of Manhattan Beach. The application was submitted on July 18, 2002.
- C. Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of the CEQA Guidelines.
- D. 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.
- E. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential.
- F. The General Plan designation for the property is Downtown Commercial.
- G. The Local Coastal Program designation for the property is Downtown Commercial. A coastal development permit is not required since the project does not include a building enlargement or increase in intensity of land use classification.
- H. Approval of the removal of the existing parking lot and the continued operation of the remaining commercial building, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working 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 as detailed in the project Staff Report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. A total of 34 parking spaces are required by this use permit. The property shall comply with this requirement by maintaining 34 city merchant parking permits or other equivalent qualifying off-site parking.
- L. This approval supercedes all previous use permit approvals on the site. This Resolution, upon its effectiveness, constitutes the Master Use Permit for the subject property.

RESOLUTION NO. PC 02-29

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject master use permit application subject to the following conditions (*indicates a site specific condition):

Construction/General Operation

1. * The project shall be operated in substantial compliance with the submitted plans as previously approved by the City Council on May 2, 2000, except that the rear parking lot portion of the plans shall be removed from the site. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. * The facility shall be limited to a maximum of 8,414 square feet of buildable floor area including a maximum of three tenant spaces. Uses permitted at the ground floor level shall be limited to restaurant, retail and personal services. Uses permitted at the upper floor level shall be limited to office, retail, and personal services. No single restaurant operation shall occupy more than 3,000 square feet of building floor area. The front restaurant (if applicable) shall have a maximum of 1,200 square feet of interior seating area and 450 square feet of outdoor seating area. The rear restaurant shall have a maximum of 1,721 square feet of interior seating area, 425 square feet of banquet/entertainment area and 270 square feet of outdoor seating area. Uses permitted at the upper floor level shall be limited to office, retail, and personal services.
3. A Traffic Management 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 delivery of materials and parking of construction related vehicles.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed and maintained 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.
5. Detailed plans shall be provided for Community Development review of all improvements and treatments of outdoor areas adjacent to the building prior to issuance of applicable tenant improvement building permits. Alcohol beverages shall be prohibited in all outdoor areas. No improvements or use of the public right-of-way shall occur until issuance of a corresponding encroachment permit by the City Council. Any areas located between the building and the public sidewalk not used for dining area or entry/exit walkways shall be on-grade landscape planter areas. Any site planting plans shall utilize drought tolerant native plants and shall be submitted for review and approval. A low pressure or drip irrigation system shall be installed in the planting areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
6. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.
7. A covered trash enclosure(s), with adequate capacity shall be provided and maintained on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.

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- 8. * A total of 34 off-site parking spaces shall be provided for the site. This requirement may be satisfied by city merchant parking permits, or other qualifying off-site parking pursuant to Chapter 10.64 of the Manhattan Beach Municipal Code.
- 9. * Outdoor dining area boundaries shall be clearly delineated with railings or other physical barriers.
- 10. * All new signs and sign changes shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. A sign program identifying allocation and restrictions of signs shall be submitted to and approved by the Community Development Department prior to the issuance of any sign permits.
- 11. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
- 12. Any outside sound or amplification system or equipment is prohibited.
- 13. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
- 14. Operations shall remain in compliance with all Fire and Building occupancy requirements at all times. The project shall conform to all disabled access requirements subject to the approval of the Building Official.
- 15. The management of the property shall police the property and all areas immediately adjacent to the businesses during the hours of operation to keep it free of litter.
- 16. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
- 17. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
- 18. The existing screen wall near the southeast corner of the site shall be altered or removed to enhance visual aesthetics for the area subject to the timing and review and approval of the Community Development Department.
- 19. The lot portions that comprise the remaining subject site after removal of the on-site parking lot shall be merged to eliminate any antiquated property lines within the site.

Restaurant Operations

- 20. * A maximum of 2 tenant spaces shall operate as eating and drinking establishment uses. A maximum of one restaurant may include counter customer service only in combination with a method of food preparation that involves interaction and direction from the customers. This use shall not be considered "take-out" restaurant use. Entertainment and dancing shall be permitted for private parties only, Thursday through Saturday, only within the banquet room located at the lower rear corner of the building. The banquet room shall have no exterior windows, doors, or other openings.
- 21. * Hours of operation of the restaurants or other ground level uses shall be as follows:
 - Front (401 MBB) 7am – 11pm, Daily
 - Rear (1150 Morningside) 9am – 11pm, Sunday through Wednesday
 - 7am – 12am, Thursday through SaturdayAll outdoor seating areas shall be closed at 10pm daily.

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- 22. Alcohol service shall only be permitted within the enclosed building. Alcohol service shall occur only in conjunction with the service of food to patrons except within the single service bar designated on the submitted plans within the rear restaurant. Alcohol service within the front restaurant shall be limited to beer, wine, and tequila served in mixed drinks known as “margaritas”.

Procedural

- 23. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
- 24. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
- 25. 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.
- 26. 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 brought against the City challenging the approval of the project.
- 27. 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.

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. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of August 28, 2002 and that said Resolution was adopted by the following vote:

AYES: Kirkpatrick, Kuch, Montgomery,
Simon, Chairman Ward
NOES: None
ABSTAIN: None
ABSENT: None

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,

RESOLUTION NO. PC 02-29

Recording Secretary