



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Wilson and Members of the City Council

THROUGH: Geoff Dolan, City Manager

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

DATE: February 15, 2005

SUBJECT: Consideration of an Appeal of the Planning Commission Decision Approving a Use Permit and Coastal Development Permit to Allow On-Site Wine Tasting and Food Sampling at an Existing Retail Wine Store, for Bacchus, Located at 1000 Manhattan Avenue.

RECOMMENDATION:

Staff recommends that the City Council **CONDUCT** the public hearing and **UPHOLD** the Planning Commission decision approving the use permit and coastal development permit to allow wine tasting.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of January 12, 2005, **APPROVED** (4-1 vote) the subject proposal to add wine tasting to an existing retail wine store. On January 25, 2005, an appeal of that decision was filed by neighbors opposing the project.

The proposal calls for the lower corner tenant space within an existing two-story commercial building to be modified to include a small indoor (100 sq. ft.) seating area for tasting wine. No bar or entertainment is proposed. Food service is intended to be minimal, to include incidental items that are complimentary to wine drinking. Most of the remainder of the subject space would continue to be used for retail sales of wine.

A similar, but more extensive, application was previously denied by the City Council in August 2000. That request included wine tasting/drinking within the existing tenant space, and outside within the abutting walkstreet encroachment area. The Council ultimately denied any wine consumption at the establishment. The current request and Planning Commission approval do not include use of the walkstreet or any other outdoor facilities.

The Planning Commission approved the wine tasting request based on a determination that this

would not be disruptive to the surrounding neighbors since it would be contained within the existing enclosed tenant space and will be used for wine sampling as a component of retail wine sales. The approval includes conditions previously considered for this location as well as those imposed upon another recent wine tasting application for The Sepulveda Wine Co. at 917 Sepulveda Blvd. One Commissioner was opposed to the proposal believing that on-site alcohol consumption could be disruptive to the surrounding neighborhood, and that additional alcohol licenses are not appropriate in the Downtown area. The Planning Commission's approval includes the city's "determination of public convenience and necessity" to allow the State to issue an additional alcohol license for the project since the wine tasting service was found by the Commission majority to be appropriate for the Downtown area.

The approved hours of operation are 11am to 8pm weekdays, and 11am to 9pm weekends, which are compatible with typical Downtown retail establishments and avoid late evening hours sensitive to residential neighbors. The wine tasting service is to be a minority component of the retail sales operation and limited to a maximum of 5 one-ounce servings per customer. Wine pouring is limited to establishment employees and may only occur within the designated 100 square-foot southwesterly corner of the store. No seating is permitted in the wine tasting area.

The Planning Commission received supporting testimony from a number of individuals, and the Chamber of Commerce and Downtown Business Association, stating that wine tasting would enhance Downtown shopping opportunities. Many members of the public commented that alcohol consumption was not appropriate at this location, and expressed concerns regarding neighborhood disruption, parking, and trash. The Planning Commission's primary response was that wine tasting was an appropriate component of the existing retail wine store and would not result in a more intense and disruptive bar-like atmosphere. Trash storage and parking conditions were also imposed upon the project to the Commission's satisfaction.

One comment specifically addressed by the Planning Commission pertains to a 1980 Coastal Development Permit issued by the Coastal Commission for the building containing the applicant's business. This permit imposed parking requirements beyond city requirements at that time, however a condition was included in the project resolution requiring compliance with the previous permit as is determined to be applicable.

The reason for appeal provided by the appellants is the Planning Commission approval "violates the parking ordinance, Local Coastal Plan, and State ABC Act". The proposal does conform with the City's parking requirements by providing one parking space (Downtown merchant permit) for the conversion of 100 square feet of retail space to wine tasting (eating and drinking use). The City zoning code did not require any parking for the existing commercial building and uses, however, the Coastal Commission apparently required 6 off-site parking spaces for a second story addition approved in 1980. Staff has no knowledge of how this requirement was satisfied since enforcement was, and still is, the responsibility of the Coastal Commission.

The Planning Commission found the proposal to be in conformance with the City's Local Coastal Program as described above and in the adopted Resolution. The City does not have authority over the project's proposed State alcohol license, which would be required prior to the commencement of any wine tasting. It is necessary, however, that the City provide the determination of convenience and necessity for the State to approve the new alcohol license for

an area that has what is considered a relatively high number of alcohol licenses.

Staff recently received an expanded appeal narrative (attached) from the appellant with a more detailed description of project concerns. These concerns have been addressed in this report and the Planning Commission's resolution of approval. No other material has been received from the applicant or public subsequent to the Planning Commission hearing.

ALTERNATIVES:

The alternatives to the staff recommendation include:

1. **CONDUCT** the public hearing and **UPHOLD/REVISE** the Planning Commission's use permit and coastal development permit approval.
2. **CONDUCT** the public hearing and **DENY** the Planning Commission's use permit and coastal development permit approval.

Attachments:

Resolution No. PC 05-2
P.C. Minutes excerpt, dated 1/12/05
P.C. Staff Report, dated 1/12/05
Expanded appellant narrative, dated 2/9/05

C: Bacchus, Applicant
Don McPherson, Appellant
Martha Andreani, Appellant

RESOLUTION NO. PC 05-02

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT ALLOWING AN ADDITION OF WINE SAMPLING TO AN EXISTING RETAIL WINE STORE LOCATED AT 1000 MANHATTAN AVENUE (Bacchus)

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 on January 12, 2005, received testimony, and considered an application for a use permit and coastal development permit to allow on-site sale and consumption of wine and food at an existing retail wine store located on the property legally described as portions of lots 5 & 6, block 68, Manhattan Beach Division #2 located at 1000b Manhattan Avenue in the City of Manhattan Beach.
- B. The applicant for the subject project is Bacchus. The owner of the property is Richard Anderson.
- C. The addition of on-site consumption of wine and food introduces an eating and drinking establishment use and an alcohol license modification to the existing retail use which requires use permit approval.
- D. The project is Categorically Exempt (Class 3 & 32, Sections 15302 & 15332) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of a existing structure and minor infill development within an urbanized area.
- E. 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.
- F. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that enhance the commercial viability of downtown as a community center, and supports small business (Goal 7, Land Use Element).
- G. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential uses. The use is permitted by the zoning code and is appropriate as conditioned for the downtown commercial area.
- H. Approval of the indoor consumption of wine with limited food 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 since the use is expected to be desirable to downtown users, and the closing times prevent disturbances during sensitive evening hours.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code and the Manhattan Beach Local Coastal Program as well as specific conditions contained herein further regulating the project.
- J. The wine with limited food consumption 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, since it is a very small operation in general, appropriately located within a commercial area, and conditioned herein to prevent possible adverse impacts.
- K. The subject location is within the Coastal Zone but not within the boundaries of the area subject to appeal to the California Coastal Commission.

- L. The project is consistent with the commercial development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. A. 2, & 6, as follows:
- The commercial structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program-Implementation Plan;
 - The project provides the full amount of parking specified by Chapter A.64 of the Implementation Plan for a retail/restaurant use within the CD zone.
- M. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:
- Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along adjacent streets.
 - Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
- N. A determination of public convenience and necessity is made for the proposed Type 42 alcohol license (as conditioned below), which shall be forwarded to the California Department of Alcohol Beverage Control upon City council acceptance of this project approval.
- O. This Resolution, upon its effectiveness, constitutes the Use Permit, Coastal Development Permit, and State required Determination of Public Convenience and Necessity for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit and Coastal Development Permit subject to the following conditions:

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted project description and plans (specifically including a maximum 100 square foot area) as approved by the Planning Commission on January 12, 2005. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission. The subject property shall be in compliance with any previous coastal development permit requirements that remain effective.
2. A Traffic Management Plan shall be submitted in conjunction with all 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.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division, Health Department, and Alcohol Beverage Control.
5. A trash/recyclables storage area shall be installed within the subject tenant space subject to the requirements of the Community Development and Public Works Departments.

Operational Restrictions

6. The facility shall operate as a retail and eating and drinking establishment use (without seating). Food service shall be incidental to include only items that are complimentary to wine tasting. All food preparation and service equipment shall be subject to Community Development approval. Primary kitchen equipment such as stoves, convection ovens, and commercial kitchen hoods shall be prohibited. Entertainment, dancing, and alcohol beverages other than wine (beer, distilled spirits, etc.) shall be prohibited. Wine consumption shall not be separated from retail operations beyond the extent required by Alcohol Beverage Control. Full retail sales operations to the public shall be conducted at all times that on-site wine or food consumption is available.
7. In the event that the business known as Bacchus should vacate the premises, the tenant space at 1000b Manhattan Avenue, 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 Bacchus including type of service provided, and peak hours of activity. The intent of this condition is to ensure that any replacement retail tenant, if exercising a Type 42 ABC license for on-site consumption of wine, would be a use similar to Bacchus.
8. The on-site alcohol consumption shall be conducted only in designated areas in conformance with the submitted floor plan. Wine tasting shall be limited to maximum 1 ounce size samples, and a maximum of five samples of wine per person. Samples shall be poured only by store employees.
9. The wine sampling area shall be limited to 100 square feet, shall have no seating furniture or fixtures, and shall be cordoned off by transbarrier posts with belts or similar barrier. Sampling shall be limited to patrons at least 21 years in age.
10. Hours of operation shall be limited to 11am to 8pm Sunday through Wednesday, and 11am to 9pm Thursday through Saturday.
11. Any use of the adjacent public right-of-way for operational purposes except normal landscaping and maintenance shall be prohibited. Modifications of the adjacent walkstreet improvements may be required to prevent improper use of that area as determined to be appropriate by the Community Development Department.
12. * Cups, plates, and utensils shall be washable and intended for long term use. Use of disposable cups, plates, and utensils shall be prohibited.
13. * A trash storage area, with adequate capacity shall be available 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 minimizing visual effects upon surrounding residential properties and the downtown area shall be provided and implemented as required by the Public Works Department. Trash shall not deposited within public trash receptacles located outside of the establishment.
14. * Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code and Local Coastal Program. The project plans result in a 1 space parking requirement which is proposed to be satisfied with an existing city merchant parking permit. Should any off-site parking used to satisfy parking requirements become unavailable at any time, the eating and drinking use shall be closed to an extent that achieves code compliance as determined by the Community Development Department, until a use permit amendment is processed to resolve project parking.
15. * All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.

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16. * Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.
17. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
18. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.
19. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
20. * The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
21. * No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

22. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
23. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
24. *Assignment.* The coastal development permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. a completed application and application fee as established by the City's Fee Resolution;
 - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. a copy of the original permit showing that it has not expired.
25. *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.
26. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired.
27. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
28. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. The operator shall cooperate with the Department of the Community Development in its conduct of periodic reviews for

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compliance of conditions approval.

29. 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.
30. 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.
31. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions 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.
32. 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 Department of Community Development shall send a 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 January 12, 2005 and that said Resolution was adopted by the following vote:

**AYES: Montgomery, Savikas,
 Simon, Chairman O'Connor**

NOES:Kuch

ABSTAIN: None

ABSENT: None

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary

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1 A motion was MADE/SECONDED (Kuch/Savikas) to **CONTINUE** the issue of Municipal
2 Code Amendment and Local Coastal Program Amendment pertaining to regulation of
3 telecommunication facilities on public right-of-way, public property, and private property
4 citywide to February 9, 2005.

- 5
- 6 AYES: Kuch, Montgomery, Savikas, Simon, Chairman O’Connor
- 7 NOES: None
- 8 ABSENT: None
- 9 ABSTAIN: None

10

11 At 8:35 a 15 minute recess was taken.

12

13 **PUBLIC HEARINGS**

14

15 **05/0112.3 USE PERMIT and COASTAL DEVELOPMENT PERMIT to Allow On-Site**
16 **Wine Tasting and Food Sampling at an Existing Retail Wine Store Located**
17 **at 1000 Manhattan Avenue (Bacchus Wine Made Simple)**

18

19 Director Thompson pointed out that the proposal is for wine tasting indoors only, and none of
20 the activities are proposed outdoors. He said that staff is recommending approval subject to
21 several conditions.

22

23 Senior Planner Lackow summarized the staff report. She said that the proposal is to convert 100
24 square feet of an existing wine retail store for an area for wine tasting. She commented that the
25 hours of operation currently are Monday through Saturday from 11:00 a.m. to 8:00 p.m. and
26 Sunday 11:00 a.m. to 6:00 p.m. She indicated that the proposed hours of operation would be
27 Sunday through Wednesday from 11:00 a.m. to 8:00 p.m., and Thursday through Saturday from
28 11:00 to 9:00 p.m. She said that staff is recommending approval with conditions similar to
29 conditions placed on Manhattan Wine Company on Sepulveda Boulevard. She indicated that
30 **Mr. McPherson** has provided input stating that Bacchus violates the Alcoholic Beverage
31 Commission (ABC) license that requires non-alcohol sales to be 50 percent of the total. She
32 commented that the requirement is a compliance issue with the ABC, and is not in the domain of
33 the City to enforce the applicant’s alcohol license. She indicated that in reviewing the
34 application, the main issue is regarding the character of the existing use: is this request going to
35 change the retail character to that of a bar? Typically staff looks at operational factors such as the
36 hours and whether entertainment is proposed and the floor plan to see a differentiation from
37 retail tasting and bar drinking. Conditions imposed can regulate the use to ensure the character
38 remains what is intended. Turning to the draft Resolution, she said that staff is suggesting that
39 condition 8 on page 3 be revised to read: “wine tasting shall be limited to a maximum of five 1
40 ounce samples . . .” She pointed out that the proposed hours of operation are not similar to a bar
41 in that the closing hour is relatively early.

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1
2 Senior Planner Lackow commented regarding a letter submitted by Mr. McPherson very recently
3 which noted that the subject site has a Coastal Development Permit that contains a condition
4 requiring six parking spaces. She noted it is unclear to staff the method by which the
5 requirement of six spaces was determined. She indicated that staff is suggesting a condition be
6 added that the proposed use be subject to confirming the Coastal Permit requirements. She
7 pointed out that at the time of the Coastal Permit, in approximately 1980, the City had no on-site
8 parking requirements for the downtown area, nor did it have a certified Local Coastal Plan, as it
9 has today. She indicated that by today's standards the site is nonconforming for parking for 9
10 spaces, and the proposal to convert from 100% retail to retail plus a small portion as an "eating
11 or drinking establishment" use classification results in the requirement of one additional parking
12 space. She suggested that staff conduct an on-site walk-through to determine the use of the site,
13 which could be included as a condition. She stated that the issue of trash disposal is addressed in
14 condition 5 of the draft Resolution, and trash collection requirements for businesses are handled
15 by the Public Works Department with the City's waste hauling contractor. She suggested that
16 conditions 5 and 13 in the draft Resolution regarding trash be incorporated into one condition.
17 She commented that there is a condition included requiring a mop sink if determined to be
18 necessary by the Public Works Department. She indicated that the applicant has submitted a
19 petition with 8 signatures in support of the proposal and this document has been provided to the
20 Commission tonight. She commented that food service is proposed only incidental to wine
21 tasting, and there is a condition prohibiting cooking facilities. She concluded that staff believes
22 that the project is consistent with the Zoning Code and General Plan and that it would not create
23 detrimental or adverse impacts to the surrounding areas and findings are included in the draft
24 Resolution. .

25
26 In response to a question from Commissioner Savikas, Senior Planner Lackow stated that the
27 operational conditions for the Sepulveda Wine Company include a requirement that the on-site
28 alcohol consumption shall be conducted only in designated areas; wine tasting shall be limited to
29 a maximum of five 1 ounce sips per person; and sips shall only be poured by store employees.

30
31 In response to a question from Commissioner Savikas, Senior Planner Lackow indicated that she
32 believes the denial of the previous request by the applicant in 2000 was mainly due to concerns
33 of alcohol use in general on the private premises and the concern of the commercial use of the
34 public right-of-way adjacent to residences.

35
36 Director Thompson pointed out that most of the controversy for the previous application was
37 regarding the commercial use of the walk street.

38
39 Commissioner Montgomery stated that the word "seating" should be deleted from condition 9 on
40 page 3 of the draft Resolution.

41

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1 Chairman O'Connor opened the public hearing.

2
3 **Ron Miranda**, representing the applicant, said that they want to offer wine tasting to help
4 enhance their store. He indicated that they have many questions regarding their wine from
5 customers, and allowing customers to sample wines would help their business.

6
7 In response to a question from Commissioner Simon, **Mr. Miranda** stated that they have a 30
8 gallon trash container and two 96 gallon recycling containers on site.

9
10 In response to a question from Commissioner Savikas, **Mr. Miranda** indicated that they would
11 have to make modifications to their existing bathroom to allow greater access to satisfy Health
12 Department requirements. He stated that their existing mop sink would be enlarged to
13 accommodate the proposed use. He commented that their existing on-site space behind the
14 building on Bayview Drive is currently used by their staff but could be incorporated for
15 customer parking if necessary. He pointed out that there is a public parking garage around the
16 corner from their store. He commented that 85 percent of their customers walk or take the
17 Ocean Express trolley rather than drive to their store.

18
19 **Michael Zislis**, a resident of the 400 block of 29th Street, commented that the proposed use
20 would not result in the store becoming a bar. He indicated that wine is a big part of the City. He
21 commented that tasting would be an important addition to the applicant's business, and it would
22 be a great opportunity for the community. He stated that allowing the proposed use would help
23 to maintain a small business atmosphere downtown in a market filled with big warehouse stores
24 such as Costco. He indicated that the hours would not be intrusive, and wine tasting would
25 occur inside, not on the walk street.

26
27 **Richard Foss**, a resident of the 800 block of 11th Street, indicated that he has witnessed the
28 commercialization and loss of small town atmosphere of the City over time. He said that he
29 supports the proposed application. He stated that the best way to educate people about wine is to
30 allow for samples to be tasted, and the atmosphere of a bar is very different than wine tasting.
31 He indicated the people would come for wine tasting for the purpose of making an informed
32 decision in purchasing wine, and such patrons are more likely to taste wine moderately. He
33 indicated that it would provide a community oriented personal service by trained staff at a time
34 in which the City is losing community stores.

35
36 **Cathy Smith**, a resident of the 100 block of 10th Street, said that she has been to multiple
37 hearings for Bacchus to change from a retail use to an on-site consumption establishment. She
38 indicated that the proposal would result in the change from a type 20 license allowing the sale of
39 wine for off-site consumption to a type 42 license with consumption permitted on premises,
40 which is attached permanently to the property. She commented that the original owners had to
41 agree when the type 20 license was granted that their alcohol sales would consist of less than 50

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1 percent of their annual sales, and the current applicants had to agree to the same condition when
2 they took over the business. She said that the condition was imposed as a state law based upon
3 the decision and conclusion that there was an overabundance of liquor consumption and liquor
4 licenses in Los Angeles County and specifically Manhattan Beach. She stated that while staff is
5 stating that it is not the jurisdiction of the Commission to enforce the conditions of the
6 applicant's license, they are also recommending that the applicant be granted an enhanced liquor
7 license. She stated that the applicants originally requested unlimited 2-ounce pours rather than
8 limiting the number to five 1-ounce pours as now recommended by staff. She indicated that the
9 previous application made by the applicants was for wine to be sold by the glass. She
10 commented that the applicants have not tried to comply with their ABC license since it was
11 granted in 1998, and **Mr. Miranda** admitted in a meeting with the neighbors that alcohol
12 consisted of 90 percent of their sales. She said that the Commission is being asked to approve
13 almost 100 percent alcohol sales, which would change the character of the neighborhood. She
14 asked regarding the method by which the new conditions would be enforced. She indicated that
15 they originally bought next to a shoe store and not next to an establishment that permitted on site
16 consumption.

17
18 **Jeff Hughes**, a resident of the 1000 block of 9th Street, stated that he supports the proposal. He
19 said that it helps for customers to be able to taste wine in order to make an informed purchase.

20
21 **Toni Hudson**, a resident of the 400 block of 21st Place, said that she is in support of the
22 proposal. She commented that she has expertise in evaluating appraisals, and values of the
23 adjacent residential properties would not increase or decrease whether the use is a shoe store or
24 an alcohol establishment.

25
26 **Paul Spadone**, a resident of the 900 block of Bayview Drive, stated that he would not see any
27 negative impact with adding wine tasting. He commented that only 100 square feet would be
28 dedicated to tasting wine, which be equivalent to 10 percent of the store.

29
30 **Laurie Hatcher**, a resident of the 100 block of 10th Street, indicated that they live with the
31 inconveniences of being located next to commercial properties such as trash trucks coming every
32 day right outside their windows; taxi drivers and valet parking attendants driving down the
33 street; and the noise of pedestrians. She indicated her concern that traffic, noise and trash issues
34 would be increased with the proposed use. She said that the applicant has not complied with the
35 requirement for under 50 percent alcohol sales, and she is not confident that they would comply
36 with allowing only five 1-ounce pours. She commented that 5-ounces is a significant amount of
37 wine. She stated that people who visit the establishment would be noisy at 9:00 at night.

38
39 **Scott Herring**, a resident of the 700 block of Manhattan Beach Boulevard, stated that he is
40 strongly in favor of permitting wine tasting. He commented that wine tasting would add to the
41 City and would improve the applicant's business. He commented that regulating the hours and

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1 quantity of wine that is served would mitigate and concerns that have been expressed regarding
2 permitting a bar.

3
4 **Martha Andreani** requested that the proposal be denied. She commented that the staff report
5 indicates that no bar is proposed; however the applicant would incorporate some type of bar area
6 if seating is not provided. She commented that a type 42 license would stay permanently with
7 the property and would allow for the possibility of the business becoming a bar in the future.
8 She indicated that food preparation and cleaning would not be possible without a kitchen sink
9 and a hot plate, which are not proposed. She indicated that the existing trash container in front
10 of the store is often overflowing currently, and any trash placed in the rear must be accessed
11 within the adjacent residential property. She said that wine tasting would consist of more
12 alcohol service than food service. She said that she does not trust that pours would be limited to
13 3 ounces. She stated that the number of alcohol licenses within the downtown area is considered
14 high and should not be increased, and there is not a necessity for another drinking establishment
15 in the downtown area. She stated that the applicant currently conducts wine tasting at the XO
16 Wine Bistro and does not have a need for another wine tasting facility. She submitted a copy of
17 an advertisement for Bacchus and it indicates that they provide private tastings which infers they
18 are already serving wine at the business. She indicated that the applicant cannot meet the parking
19 requirement of 6 to 10 parking spaces, which would compound the issue of parking in the
20 downtown area. She commented that Mr. Miranda did meet with residents and stated that
21 alcohol represents 90 percent of their sales.

22
23 **Don McPherson** indicated that the subject property with its three businesses currently operates
24 in violation of its building permit, Coastal Permit and ABC license. He commented that the
25 Coastal and Building Permits require six on-site parking spaces and 2000 square feet on the
26 second floor maintained as storage. He said that the subject Resolution would allow the upper
27 level useable for offices or potentially a restaurant without adding any parking requirement. He
28 commented that if the building were constructed today there would be a parking requirement of
29 10 parking spaces. He indicated that the number of employees who park at the meters would be
30 reduced if they were required to park in the downtown structure. He commented that it cannot
31 be justified to exempt the applicant from any parking requirement. He indicated that currently
32 the applicant must access his property in order to place trash at the rear of the subject building.
33 He said that the proposal includes serving food such as cheese and salami and this is not typical
34 for authentic wine tasting. He indicated that the applicant openly and blatantly violates the ABC
35 condition requiring less than 50 percent of alcohol sales, and there is no guarantee that they
36 would adhere to any condition regarding the size of servings for wine tasting. He indicated that
37 the proposed Resolution requires that the proposed use comply with the City, Coastal Permit,
38 and ABC requirements, which demonstrates that it is the responsibility of the City to ensure that
39 all conditions of the ABC are met. He commented that the building needs to have sufficient
40 trash storage and collection, which it does not provide currently.

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1 **Dean Tooms**, a resident of the 200 block of 10th Street, said that he enjoys wine tasting and
2 appreciates that the applicants are attempting to improve their business. He indicated that he
3 would support the proposal if he could be assured that the business would remain the same 10 or
4 15 years in the future. He said that the large number of drinking establishments in the downtown
5 area results in many people who have been drinking creating a lot of noise. He indicated that he
6 supports the applicant's concept, but he does not want the problem to be worsened in the future
7 by the store eventually changing into another drinking establishment.

8
9 **Erin Horowitz**, a downtown property owner, commented that she feels the amount of drinking
10 and resulting noise in the downtown area has decreased in recent years. She indicated that it is
11 important to allow the applicants the opportunity to provide tasting, and they will comply with
12 any requirements because their business is extremely important to them. She indicated that she
13 supports the proposal.

14
15 **Jackie May**, downtown resident, commented that she noted people who have spoken in support
16 do not live near the downtown area. She said that enforcement in the downtown area is a
17 problem, and people currently stand outside of Fonz's drinking. She indicated that there is a
18 serious problem with trash accumulation in the downtown area. She also stated that street
19 parking is very limited in the area, and allowing only one on-site space for an increased use
20 would increase the problem.

21
22 **Mr. Miranda** commented that people will not visit their store if parking is not available, and
23 there is a two hour limit on the street which results in a turnover of parking. He said that
24 downtown parking should not be an issue with the construction of the new large parking
25 structure. He commented that only the 100 foot space would be under the type 42 liquor
26 license, and the remainder of the store would be under the existing type 20 license. He said that
27 the issue would need to come before the Commission and City Council again if they or any
28 future operators proposed a type 42 license for the remainder of the store. He indicated that they
29 would not have the ability to convert the upstairs storage area into a restaurant. He pointed out
30 that the operators of the surrounding businesses have expressed support for the proposed use. He
31 indicated that the ABC is more concerned about businesses serving alcohol to minors than they
32 are in enforcing the 50 percent requirement. He indicated that he has invited representatives of
33 the ABC to visit their store and view their operation, and he has been assured that he has no
34 issues. He indicated that they currently keep their trash at the rear of the property, which has
35 sufficient space for trash storage without interfering with **Mr. McPherson's** property. He
36 indicated that he would not have an objection to keeping the trash cans inside their building and
37 placing it outside on Manhattan Avenue for pickup if necessary. He indicated that the private
38 tasting that he advertises occur off-premise, not in the store.

39
40 In response to a question from Commissioner Savikas, **Mr. Miranda** stated that a type 42
41 license allows for the serving of beer and wine and only allows incidental food service. He

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1 commented that they would wash their glasses in a sink, which is permissible by the Board of
2 Health provided that the water reaches 110 degrees and soap is used.

3
4 Chairman O'Connor closed the public hearing.

5
6 Commissioner Montgomery stated that no outside seating is proposed. He commented that
7 condition 5 would regulate trash collection. He stated that the use could not be automatically
8 converted by future owners, and item 7 severely limits and restricts the use of the site. He
9 pointed out that there is also a condition that the permit be reviewed after six months and
10 subsequently on an annual basis. He indicated that the proposed operation would also be
11 required to be in compliance with the Code and Local Coastal Program. He indicated that he
12 supports the proposal.

13
14 Commissioner Simon commented that the proposal is not for a bar, and the use would be
15 substantially restricted by containing the activities inside. He indicated that he is satisfied with
16 the responses to the issues that have been raised. He said that he is comfortable with the
17 condition that the proposed use would be subject to compliance with the requirements of the
18 Coastal Commission. He indicated that he is also confident that the concerns regarding trash
19 will be addressed. He commented that large amounts of trash would not result from the proposed
20 use because glasses would be used rather than paper cups. He said that he would support the
21 proposal.

22
23 Commissioner Savikas commented that public hearings allow an opportunity for applicants to
24 understand the concerns and work with the neighbors. She stated that she would like conditions
25 as referenced by Commissioner Simon to be included in the Resolution.

26
27 Commissioner Kuch stated that he voted against the previous proposal of the applicant for wine
28 tasting because it was to occur in the outside area. He commented that he appreciates that the
29 current proposal is for tasting to occur indoors, but he would hope that the intention would not be
30 to eventually open up the patio for wine tasting. He said that he does not have an issue with the
31 conditions as presented; however, his vote is influenced by the large number of establishments in
32 the downtown area that currently serve alcohol. He commented that he also wants his vote to be
33 consistent with his vote for the Sepulveda Wine Company application.

34
35 Chairman O'Connor stated that it is clear from the letters that were received that misinformation
36 has been circulated, and it is important that it be made very clear that the proposal is not for use
37 of the outside space. He said that his understanding of the previous hearings for Bacchus is that
38 the main issue was the use of the outside area and not the concept of allowing wine tasting. He
39 said that Commissioner Simon did summarize the issues and conditions that he also feels should
40 be included. He commented that there is a difference between the ABC license and the
41 Conditional Use Permit.

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1
2 Director Thompson said that approval of the Use Permit allows the owner to conduct the
3 business under the provisions and conditions of the permit, and subsequent owners must also
4 abide by those conditions. He said that the county and ABC have their own set of permits and
5 requirements which they are responsible for enforcing.

6
7 Chairman O'Connor stated that there appears to be a consensus of the Commission that
8 conditions be included regarding trash and parking.

9
10 Director Thompson summarized changes to be made to the resolution for clarification: he
11 pointed out that the proposed Resolution addresses trash collection and parking. He stated that
12 condition 8 restricts the number and amount of samples that are poured. He also stated that staff
13 will revise condition 9 to require that no seating be provided in the tasting area.

14
15 Commissioner Simon said that his concern was regarding **Mr. McPherson's** statement that the
16 business is not in compliance with building improvement requirements and with parking
17 requirements of the Coastal Commission. He indicated that he supports staff's suggestion that
18 the proposed use be subject to compliance with all regulations of the Coastal Commission.

19
20 Chairman O'Connor commented that he also has a concern regarding parking, and he also would
21 want a condition to be included that the applicant must comply with the requirements of the
22 Coastal Permit. He commented that it was expressed by staff that they are not certain if the
23 requirement of six spaces was still appropriate or still valid, and his understanding is that staff's
24 intent was not necessarily to specify six spaces but rather to specify compliance with the Coastal
25 Permit.

26
27 A motion was MADE/SECONDED (Savikas/Montgomery) to USE PERMIT and COASTAL
28 DEVELOPMENT PERMIT to Allow On-Site Wine Tasting and Food Sampling at an Existing
29 Retail Wine Store Located at 1000 Manhattan Avenue subject to conditions as discussed.

30
31 AYES: Montgomery, Savikas, Simon, Chairman O'Connor

32 NOES: Kuch

33 ABSENT: None

34 ABSTAIN: None

35
36 Director Thompson explained the 15 day appeal period and stated that the item will be placed on
37 the City Council's Consent Calendar for their meeting of February 1, 2005.

38
39 **DIRECTOR'S ITEMS**

40
41 The American Planning Association national conference will be held March 19 through 23 in

PLANNING COMMISSION MINUTES

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1 San Francisco.

2

3 Commissioner Simon requested that staff e-mail him information regarding the conference.

4

5 **PLANNING COMMISSION ITEMS**

6

7 **A. Public Noticing**

8

9 Chairman O'Connor requested that the Commissioners be included in the public noticing process
10 for all projects by mail or e-mail.

11

12 Director Thompson said that staff will add the Commissioners to the list of public noticing.

13

14 **TENTATIVE AGENDA: January 26, 2005**

15

16 A. Use Permit Amendment/350 North Sepulveda Boulevard (El Tarasco Restaurant)

17

18 **ADJOURNMENT**

19

20 The meeting of the Planning Commission was **ADJOURNED** at 10:50 p.m. in the City Council
21 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, January 26, 2005, at 6:30 p.m. in
22 the same chambers.

23

24

25 _____
26 RICHARD THOMPSON
27 Secretary to the Planning Commission

SARAH BOESCHEN
Recording Secretary

**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: January 12, 2005
SUBJECT: Use Permit and Coastal Development Permit to Allow on-site Sale and Consumption of Wine and Food, Located at 1000 Manhattan Avenue (Bacchus)

RECOMMENDATION

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

APPLICANT

Bacchus
1000 Manhattan Avenue
Manhattan Beach, CA 90266

OWNER

Richard Anderson
3189 Wood Creek Dr.
Chico, CA 95928

PROJECT OVERVIEW

LOCATION

Location

1000 Manhattan Ave., at the northeast corner of Manhattan Ave. and 10th St. (See Site Location Map).

Legal Description

Portions of Lots 5 & 6, Block 68, Manhattan Beach Division #2.

Area District

III

LAND USE

<u>General Plan</u>	Downtown Commercial	
<u>Zoning</u>	CD, Commercial Downtown	
<u>Land Use</u>	<u>Existing</u>	<u>Proposed</u>
	4,360 sq. ft. Retail/Office Building	4,360 sq. ft. Retail/Office space including 100 sq. ft. indoor wine/food consumption area

Neighboring Zoning/Land Uses

North	CD/Retail
South (10 th St.)	CD/Retail & Office
East	CD/Residential Duplex
West (across Manhattan Ave.)	CD/Restaurant & Retail

PROJECT DETAILS

	<u>Proposed (and existing)</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	2,430 sq. ft.	2,700 sq. ft. min
Building Floor Area:	4,360 sq. ft.	3,645 sq. ft. max
Height	2-stories existing	26 ft. max.
Setbacks	None	None
Parking:	1 space (*)	1 space
Hours of Operation:	Sun-Thurs: 11am – 8pm Fri-Sat: 11am – 9pm	N/A

(*) - One City merchant parking permit space is proposed to satisfy required parking based on conversion of 100 square feet of retail use to eating and drinking use.

BACKGROUND

The subject business received permission from the City Council on October 23, 1998 for issuance of a state alcohol license to conduct retail sales of wine. The previous use of the tenant space was a retail shoe store. The current proposal is to allow on-premises consumption of wine samples in conjunction with the existing retail (off-sale) operation. The on-site consumption of wine or food requires use permit approval of an eating and drinking establishment use. Additionally, the zoning code requires use permit approval of any modification to a state alcohol license.

A similar, but more extensive, application was previously denied by the city in August 2000. That request included wine tasting/drinking within the existing tenant space, and outside within the

abutting walkstreet encroachment area. The current request does not propose use of the walkstreet or any other outdoor facilities.

DISCUSSION

The submitted plans show the lower corner tenant space within an existing two-story commercial building to be modified to include a small indoor (100 sq. ft.) seating area for tasting wine. No bar or entertainment is proposed. Food service is intended to be minimal, to include incidental items that are complimentary to wine drinking. Most of the remainder of the subject space would continue to be used for retail sales of wine. The other two existing tenants within the building would be unaffected.

The project does not identify any significant visible construction. No kitchen area is proposed, although some cleaning and expanded bathroom facilities would be necessary at the rear of the tenant space in compliance with health regulations. The plans do not specifically identify a trash storage area, however the applicant indicates that existing pick-up procedures from the front and rear of the business shall be adequate for the anticipated minimal increase in trash volume.

The project issues warranting discussion are as follows:

Alcohol

The service of alcohol is typically of concern as a potential cause of disruption to surrounding neighbors. The existing business currently sells packaged wine only for consumption off-site. Staff is not aware of any problems that have resulted in the 6 years the business has been open. The on-site consumption of alcohol would increase the potential for neighborhood disruptions. Residences within the CD zone are located on 10th Street directly east of subject location, and residences within the RH zone are located to the west beyond the Manhattan Avenue commercial frontages. Establishments that focus more on alcohol service than food service are usually a greater concern than those oriented more toward dining.

In this case, the applicant believes that the proposal to serve only wine (no beer or liquor) for sampling purposes, and minimal food service, in conjunction with retail sales of wine, would prevent the establishment from becoming a disruption to neighbors. This belief relies on the expectation that customers attracted to this kind of service would be tasting wine samples to assist in making purchases rather than consuming substantial quantities for lengthy periods. The applicant states specifically that tastings will be limited to 2 or 3 ounce quantities rather than full glasses of wine.

The applicant is proceeding with state approval of an on-sale beer and wine license. Beer service is not desired by the applicant and can be prohibited by the city's use permit. The state's final decision whether to issue an alcohol license typically follows the city proceedings, and may incorporate some of the city's restrictions (at the state's discretion), if it is approved at all.

A map of all types of existing alcohol licenses located downtown is attached to this report for the Planning Commission's reference. A total of 37 licenses presently exist. The concentration of alcohol licenses existing within the Downtown area is considered high. New alcohol licenses issued by the State require a "determination of public convenience and necessity" from the city, which is addressed in the attached draft resolution. The most recent establishment of an entirely new on-site consumption alcohol license was Ebizo Restaurant located at 229 Manhattan Beach Boulevard.

Hours of Operation

The proposed hours of operation for the establishment are 11am to 8pm weekdays, and 11am to 9pm weekends. These hours are consistent with retail types of operation rather than eating and drinking establishments, which typically close later at night.

Parking

The existing downtown commercial building has no parking and no opportunities to provide any parking on-site. The attached parking calculations indicate that the site is presently nonconforming to downtown parking requirements by 9 spaces. The proposed project raises the requirement to a total of 10 parking spaces, therefore the project requirement is 1 parking space. The business can satisfy this requirement by securing a city merchant parking permit. The applicant currently has at least one qualifying parking permit located within Lot 1 behind the establishment.

Public Input

Staff has received the attached written responses to the project hearing notice. Letters from the Chamber of Commerce and Downtown Business Association support the request, and a number of letters from neighbors are in opposition. Opposition letters indicate concerns for neighborhood disruptions from alcohol influenced patrons and a more "bar-like" atmosphere than intended by the applicant. Staff expects that the small scale and retail oriented character of the proposed wine tasting will prevent these problems. Some references are made to activity outside of the building or within the public right-of-way, which is not proposed and would be prohibited.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and adopt the proposed resolution approving the project. The attached resolution of approval includes conditions of approval regarding: hours, prohibition of entertainment, prohibition of outdoor sound, trash storage, patron supervision, area clean-up, and parking. Applicable conditions from a recent similar approval for Manhattan Wine Co. at 917 Sepulveda Boulevard have been included as well. The resolution also includes findings that the project: is consistent with the zoning code and General Plan, will not be detrimental to the city or

surrounding area, will not adversely impact or be impacted by nearby properties, and is a necessity of convenience pursuant to State alcohol licensing requirements.

The General Plan contains the following goals for the Planning Commission to consider with respect to the project:

- Continue to support and encourage the viability of the “downtown” area of Manhattan Beach
- Protect existing residential neighborhoods from the intrusion of inappropriate and incompatible uses.

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 3 & 32) as a modification to small infill development within an existing urbanized area per Sections 15303 and 15332 of the CEQA Guidelines.

ALTERNATIVES

The alternatives available to the Planning Commission include:

1. **APPROVE** a modified version of the project with appropriate revisions to the proposed Resolution.
2. **DENY** the project subject to public testimony received, based upon appropriate findings, and **DIRECT** Staff to return with an appropriate Resolution.

Attachments:

- A. Draft Resolution No. PC 05-
- B. Vicinity map
- C. Alcohol license map
- D. Applicant request/information (NAE)
- E. City Denial of previous use permit request (NAE)
- F. Unimplemented PC Bacchus approval
- G. Sepulveda Wine Co. approval
- H. Parking calculations
- I. Public Input (NAE)

(NAE) = not available electronically

cc: Bacchus, Applicant

RESOLUTION NO. PC 05-

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING A USE PERMIT ALLOWING AN
ADDITION OF WINE SAMPLING TO AN EXISTING RETAIL WINE
STORE LOCATED AT 1000 MANHATTAN AVENUE (Bacchus)**

**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 on January 12, 2005, received testimony, and considered an application for a use permit and coastal development permit to allow on-site sale and consumption of wine and food at an existing retail wine store located on the property legally described as portions of lots 5 & 6, block 68, Manhattan Beach Division #2 located at 1000b Manhattan Avenue in the City of Manhattan Beach.
- B. The applicant for the subject project is Bacchus. The owner of the property is Richard Anderson.
- C. The addition of on-site consumption of wine and food introduces an eating and drinking establishment use and an alcohol license modification to the existing retail use which requires use permit approval.
- D. The project is Categorically Exempt (Class 3 & 32, Sections 15302 & 15332) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of a existing structure and minor infill development within an urbanized area.
- E. 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.
- F. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that enhance the commercial viability of downtown as a community center, and supports small business (Goal 7, Land Use Element).
- G. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential uses. The use is permitted by the zoning code and is appropriate as conditioned for the downtown commercial area.
- H. Approval of the indoor consumption of wine with limited food 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 since the use is expected to be desirable to downtown users, and the closing times prevent disturbances during sensitive evening hours.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code and the Manhattan Beach Local Coastal Program as well as specific conditions contained herein further regulating the project.
- J. The wine with limited food consumption 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, since it is a very small operation in general, appropriately located within a commercial area, and conditioned herein to prevent possible adverse impacts.
- K. The subject location is within the Coastal Zone but not within the boundaries of the area subject to appeal to the California Coastal Commission.

Resolution No. PC 05-

- L. The project is consistent with the commercial development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. A. 2, & 6, as follows:
- The commercial structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program-Implementation Plan;
 - The project provides the full amount of parking specified by Chapter A.64 of the Implementation Plan for a retail/restaurant use within the CD zone.
- N. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:
- Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along adjacent streets.
 - Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
- O. A determination of public convenience and necessity is made for the proposed Type 42 alcohol license (as conditioned below), which shall be forwarded to the California Department of Alcohol Beverage Control upon City council acceptance of this project approval.
- P. This Resolution, upon its effectiveness, constitutes the Use Permit, Coastal Development Permit, and State required Determination of Public Convenience and Necessity for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit and Coastal Development Permit subject to the following conditions:

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted project description and plans (specifically including a maximum 100 square foot seating area) as approved by the Planning Commission on January 12, 2005. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all 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.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division, Health Department, and Alcoholic Beverage Control.
5. A trash/recyclables storage area shall be installed within the subject tenant space subject to the requirements of the Community Development and Public Works Departments.

Operational Restrictions

6. The facility shall operate as a retail and eating and drinking establishment use. Food service shall be incidental to include only items that are complimentary to wine tasting. All food preparation and service equipment shall be subject to Community Development approval. Primary kitchen equipment such as stoves, convection ovens, and commercial kitchen hoods shall be prohibited. Entertainment, dancing, and alcohol beverages other than wine (beer, distilled spirits, etc.) shall be prohibited. Wine consumption shall not be separated from retail operations beyond the extent required by Alcohol Beverage Control. Full retail sales operations to the public shall be conducted at all times that on-site wine or food consumption is available.
7. In the event that the business known as Bacchus should vacate the premises, the tenant space at 1000b Manhattan Avenue, 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 Bacchus including type of service provided, and peak hours of activity. The intent of this condition is to ensure that any replacement retail tenant, if exercising a Type 42 ABC license for on-site consumption of wine, would be a use similar to Bacchus.
8. The on-site alcohol consumption shall be conducted only in designated areas as per the submitted floor plan. Wine tasting shall be limited to a maximum of five ounces of wine per person per day. Samples shall be poured only by store employees.
9. The wine sampling area shall be limited to 100 square feet and shall be cordoned off by transbarrier posts with belts or similar barrier to restrict sampling only to patrons at least 21 years in age.
10. Hours of operation shall be limited to 11am to 8pm Sunday through Wednesday, and 11am to 9pm Thursday through Saturday.
11. Any use of the adjacent public right-of-way for operational purposes except normal landscaping and maintenance shall be prohibited. Modifications of the adjacent walkstreet improvements may be required to prevent improper use of that area as determined to be appropriate by the Community Development Department.
12. * Cups, plates, and utensils shall be washable and intended for long term use. Use of disposable cups, plates, and utensils shall be prohibited.
13. * A trash storage area, with adequate capacity shall be available 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 minimizing visual effects upon surrounding residential properties and the downtown area shall be provided and implemented as required by the Public Works Department. Trash shall not be deposited within public trash receptacles located outside of the establishment.
14. * Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code and Local Coastal Program. The project plans result in a 1 space parking requirement which is proposed to be satisfied with an existing city merchant parking permit. Should any off-site parking used to satisfy parking requirements become unavailable at any time, the eating and drinking use shall be closed to an extent that achieves code compliance as determined by the Community Development Department, until a use permit amendment is processed to resolve project parking.
15. * All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.
16. * Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.

Resolution No. PC 05-

17. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
18. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.
19. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
20. * The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
21. * No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

22. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
23. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
24. *Assignment.* The coastal development permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. a completed application and application fee as established by the City's Fee Resolution;
 - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. a copy of the original permit showing that it has not expired.
25. *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.
26. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired.
27. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
28. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. The operator shall cooperate with the Department of the Community Development in its conduct of periodic reviews for compliance of conditions approval.

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29. 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.
30. 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.
31. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions 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.
32. 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 Department of Community Development shall send a 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 January 12, 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

Vicinity Map

1000 Manhattan Avenue



Alcohol Licenses - Downtown Commercial



License Categories

- On-Site Consumption
- Off-Site Consumption
- Catering or Club

1	Trio	10,11	Cafe Pierre	21	Vons Co.	30	Vacant Space
2	The Kettle	12	Pasta Pomodoro	22	Penny Lane	31	Manhattan Market
3	Francesca	13	Sushi	23	900 Man. Ave.	32	Former Liquor Store
4	Good Stuff	14	Sun and Moon Cafe	24	Michi	33	Mama D's
5	Beaches	15	Towne	25	Old Venice	34	Wahoos Fish Taco
6	Manhattan Pizzeria	16	Octopus	26	El Sombrero	35	Avenue Restaurant
7, 8	Shark's Cove	17	Shellback Tavern	27	Fonzs Restaurant	36	Talia's
9	Hennessey's Tavern	18	Rock n' Fish	28	Ercoles	37	Bacchus Wine Shop
		19	M B Brewing Co.	29	Manhattan Grocery	38	Ebizo's
		20	Mangiamo				

RESOLUTION NO. PC 00-15

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW ON-SITE SALE AND CONSUMPTION OF WINE WITH LIMITED FOOD SERVICE, AT AN EXISTING RETAIL WINE STORE LOCATED AT 1000b MANHATTAN AVENUE (Bacchus)

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 public hearings on March 22, and May 24, 2000, received testimony, and considered an application for a use permit and coastal development permit to allow on-site sale and consumption of wine and food, and service of wine and food within the walk-street encroachment area at an existing retail wine store located on the property legally described as portions of lots 5 & 6, block 68, Manhattan Beach Division #2 located at 1000b Manhattan Avenue in the City of Manhattan Beach.
- B. The Planning Commission approved the proposed indoor consumption of wine with limited food, but did not approve any outdoor alcohol service or other commercial use. Commercial use involving alcohol service within the walk street area was found to be potentially disruptive to the surrounding neighborhood.
- C. The applicant for the subject project is Bacchus. The owner of the property is Richard Anderson.
- D. The addition of on-site consumption of wine and food introduces an eating and drinking establishment use and an alcohol license modification to the existing retail use which requires use permit approval.
- E. The project is Categorically Exempt (Class 3 & 32, Sections 15302 & 15332) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of a existing structure and minor infill development within an urbanized area.
- F. 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.
- G. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that enhance the commercial viability of downtown as a community center.
- H. The property is located within Area District III and is zoned CD Commercial Downtown. The surrounding private land uses consist of commercial and residential uses. The use is permitted by the zoning code and is appropriate as conditioned for the downtown commercial area.
- I. Approval of the indoor consumption of wine with limited food 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 since the use is expected to be desirable to downtown users, and the closing times prevent disturbances during sensitive evening hours.
- J. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code and the Manhattan Beach Local Coastal Program as well as specific conditions contained herein further regulating the project.
- K. The wine with limited food consumption 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, since it is a very small operation in general, appropriately located within a commercial area, and conditioned herein to prevent possible adverse impacts.

- L. The subject location is within the Coastal Zone but not within the boundaries of the area subject to appeal to the California Coastal Commission.
- M. The project is consistent with the commercial development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. A. 2, & 6, as follows:
 - The commercial structure and outdoor patio are consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program-Implementation Plan;
 - The project provides the full amount of parking specified by Chapter A.64 of the Implementation Plan for a retail/restaurant use within the CD zone.
- N. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:
 - Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along adjacent streets.
 - Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
- O. This Resolution, upon its effectiveness, constitutes the Use Permit and Coastal Development Permit for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit and Coastal Development Permit subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

- 1. The project shall be constructed and operated in substantial compliance with the submitted plans (specifically including a maximum 120 square foot seating area) as approved by the Planning Commission on May 24, 2000 except that the proposed outdoor patio area shall be deleted. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
- 2. A Traffic Management Plan shall be submitted in conjunction with all 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.
- 3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
- 4. * Modifications and improvements to the tenant space shall be in compliance with applicable Building Division, Health Department, and Alcoholic Beverage Control.
- 5. * A trash/recyclables storage area shall be installed within the subject tenant space subject to the requirements of the Community Development and Public Works Departments.

Operational Restrictions

6. * The facility shall operate as a retail and eating and drinking establishment use. Food service shall be incidental to include only items that are complimentary to wine tasting. All food preparation and service equipment shall be subject to Community Development approval. Primary kitchen equipment such as stoves, convection ovens, and commercial kitchen hoods shall be prohibited. Entertainment, dancing, and alcohol beverages other than wine (beer, distilled spirits, etc.) shall be prohibited. Wine consumption shall not be separated from retail operations beyond the extent required by Alcohol Beverage Control. Full retail sales operations shall be conducted at all times that on-site wine or food consumption is available.
7. * Hours of operation shall be limited to 11am to 10pm daily
8. * Any use of the adjacent public right-of-way for operational purposes except normal landscaping and maintenance shall be prohibited.
9. * Cups, plates, and utensils shall be washable and intended for long term use. Use of disposable cups, plates, and utensils shall be prohibited.
10. * A trash storage area, with adequate capacity shall be available 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 minimizing visual effects upon surrounding residential properties and the downtown area shall be provided and implemented as required by the Public Works Department. Trash shall not deposited within public trash receptacles located outside of the establishment.
11. * Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code and Local Coastal Program. The project plans (for indoor operation only) result in a 1 space parking requirement which is proposed to be satisfied with an existing city merchant parking permit. Should any off-site parking used to satisfy parking requirements become unavailable at any time, the eating and drinking use shall be closed to an extent that achieves code compliance as determined by the Community Development Department, until a use permit amendment is processed to resolve project parking.
12. * All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited.
13. * Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.
14. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
15. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.
16. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
17. * The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
18. * No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

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 subject to 24-hour advance notice.
21. *Assignment.* The coastal development permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. a completed application and application fee as established by the City's Fee Resolution;
 - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. a copy of the original permit showing that it has not expired.
22. *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.
23. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired.
24. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
25. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
26. 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.
27. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
28. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions 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.
29. 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 May 24, 2000 and that said Resolution was adopted by the following vote:

AYES: Simon, Milam, Ward

NOES: Kuch, Chairman Kirkpatrick

ABSTAIN: None

ABSENT: None

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary

RESOLUTION NO. PC 04-11

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT ALLOWING AN ADDITION OF WINE SAMPLING TO AN EXISTING RETAIL WINE STORE LOCATED AT 917 SEPULVEDA BOULEVARD (SEPULVEDA WINE CO.)

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. On June 9, 2004, the Planning Commission of the City of Manhattan Beach reviewed a use permit requesting permission to add wine sampling to an existing 2,100 square commercial space located at 917 Sepulveda Boulevard in the City of Manhattan Beach.
- B. The subject property located at 917 Sepulveda Blvd., is legally described as portions of lots 1 and 2, Block 11, Tract 142, in the City of Manhattan Beach, as per map filed in Book 13, Pages 182 and 183 of Maps in the Office of the County Recorder of Los Angeles.
- C. The subject property is located in Area District I and is zoned CG, General Commercial, as are all of the adjoining properties. The subject property is classified General Commercial in the Manhattan Beach General Plan.
- D. The applicant for said use permit is Orris Cowgill, owner of the business known as “Sepulveda Wine Co.” The business objective is to enhance the retail business by providing wine sampling to customers. The proposed hours of operation are between 10:00 am and 8:00 pm, Tuesdays through Thursday, and 12:00 pm to 5:00 pm Sunday and Monday. Private wine tasting classes shall occur after hours on Sunday and/or Monday, during off-peak use of the center. The proposed occupancy will not involve any structural modification to the existing tenant space.
- E. The subject property is located in a four-tenant commercial center. The entire site includes a restaurant, personal service business and an ice cream store, all containing 864 square feet each. The site requires 33 parking stalls. The on-site parking for the four retail stores contains 21 parking stalls, including one disabled access stall. To supplement on-site parking, the property owner subleases 14 additional stalls (and ten additional, 24 total, after 5 pm) from the parking lot to the west leased by the United States Post Office.
- F. The project is determined to be a Categorical Exemption (Class 32, Section 15332) from the requirements of the California Environmental Quality Act in that it is a minor infill development within an existing urbanized area.
- G. A de minimis impact finding is hereby made that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- H. Pursuant to Section 10.84.060 the following findings are made with respect to the subject Use Permit:
 - 1. The location of the retail wine store is in accord with the objectives of the Zoning Ordinance and purposes of the General Commercial zoning district in that the subject business will provide a desired commodity catering to the local and nearby community within an existing commercial center at a scale compatible with surrounding uses.
 - 2. The project site is classified General Commercial in the Manhattan Beach General Plan. The retail wine store is in accord with the goals and policies of the General Plan, and General Commercial district in that the project supports and encourages the viability of the Sepulveda commercial corridor, and supports a high quality and appropriate private

RESOLUTION NO. PC 04-11

investment in the city's commercial district. (Goals 4 and 5, Land Use Element).

3. The proposed additional use will comply with all applicable provisions of the Zoning Ordinance.
4. The proposed additional use will not adversely impact nor be adversely impacted by nearby properties. The proposed additional use will be compatible with other existing uses on the same and nearby properties. The proposed additional use is small scale, consists of activities that will be conducted indoors, and will not produce significant traffic, parking, noise, vibration, or create demands that would exceed the capacity of public services and facilities that cannot be mitigated.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject application subject to the following conditions:

Operational

1. The implementation of this use permit shall be in substantial compliance with the submitted project description, findings and conditions of approval contained in this Resolution.
2. Twenty-one (21) on-site parking stalls shall be maintained and be accessible at all times. In addition, the property owner shall provide a minimum of fourteen (14) parking spaces by lease on an adjoining or nearby property at all times.
3. In the event that the business known as Sepulveda Wine Co should vacate the premises, the tenant space at 917 Sepulveda, 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 Sepulveda Wine Co, including type of service provided, and peak hours of activity. The intent of this condition is to ensure that any replacement retail tenant, if exercising a Type -42 ABC license for on-site consumption of beer/wine, would be a use similar to Sepulveda Wine Company.
4. The property owner shall obtain approval from the State Department of Alcoholic Beverage Control and Los Angeles County Health Department and shall comply with all related conditions of approval.
5. The on-site alcohol consumption shall be conducted only in designated areas as per the submitted floor plan. Wine tasting shall be limited to a maximum of five one-ounce sips per person. Sips shall be poured only by store employees.
6. The wine sampling area shall be cordoned off by transbarrier posts with belts or similar barrier to restrict sampling only to patrons at least 21 years in age.
7. The applicant shall install landscaping (plants) in the planter box located on the project site to beautify the parking lot adjacent to the store.
8. No exterior sign modification and/or additions advertising wine sampling is permitted.
9. Food preparation and service shall be prohibited, except incidental snacks such as bread, fruit and cheese, or if required by the Department of Alcohol Beverage Control. The intent is to ensure that the retail character of the store is maintained.
10. The retail store hours shall be limited to 10:00am to 8:00pm Tuesday through Saturday, and 12:00pm to 5:00pm Sunday and Monday. Private wine tasting events shall be limited to the hours of 5:00pm to 8:00pm Sunday and/or Monday, when the retail business is closed. Private wine tastings shall be limited to 16 customers per gathering and may be held a

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maximum of 4 times per month.

Public Works

11. A mop sink must be installed and shown on the plumbing plans.
12. Commercial enterprises must comply with the National Pollution Discharge Elimination System (NPDES) clean water requirements. Discharge of mop water, floor mat washing, trashcan cleaning and washing out trash enclosures into the street or storm drain system is prohibited. MBMC 5.84.060, 5.84.090

Building Department

13. All paths of travel areas for the remodel/addition shall meet the Disabled Access requirements.
14. All work shall meet with the 2001 California Codes which includes: 1999 National Electrical Code, 1997 Uniform Building Code, 2000 Uniform Mechanical Code and Uniform Plumbing Code.
15. The restroom and rear office area shall be modified to comply by Health Department or State ABC regulations and/or permit/license requirements.

Procedural

16. This Resolution shall become effective within fifteen days unless 1) an appeal is filed previously by a party other than the City Council, or 2) an appeal is made by the City Council subsequently at a regularly scheduled meeting.
17. An annual review of these conditions of approval will be conducted by the Planning Division within one year (June 9, 2005) of the initial date of this approval.
18. The applicant/business owner shall cooperate with the Department of the Community Development in its conduct of periodic reviews for compliance of conditions of approval.
19. 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.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedures 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 proceeding required by Code of Civil Procedure Section 1094.6.

RESOLUTION NO. PC 04-11

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on June 9, 2004 and that said Resolution was adopted by the following vote:

AYES: Savikas, Simon, O'Connor, Chairman Montgomery

NOES: Kuch

ABSTAIN: None

ABSENT: None

Richard Thompson
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

Site Parking Calculation Worksheet
 (Quantities are square feet unless otherwise noted)

Site/Project: Bacchus

Existing Site Parking Requirement(A)
 (if existing facility is to remain & project < 50%)

Use	Quantity	Requirement	Spaces Required
Retail	3000	/ 200 per space	= 15 spaces
Personal Serv.		/ 300 per space	= 0 spaces
Office, General	1360	/ 300 per space	= 4.5333333 spaces
Office, Medical		/ 200 per space	= 0 spaces
Restaurant, sit	(Total (A))'s	from sit -down wkshts.)	0 spaces
Restaurant, take		/ 75 per space	= 0 spaces
Electronic Games		/ 400 per space	= 0 spaces
Other-		/ 1 per space	= 0 spaces
Other-		/ 1 per space	= 0 spaces
Total(A):			19.533333 spaces

Proposed Parking Requirement(B):

Use	Quantity	Requirement	Spaces Required
Retail	2880	/ 200 per space	= 14.4 spaces
Personal Serv.		/ 300 per space	= 0 spaces
Office, General	1360	/ 300 per space	= 4.5333333 spaces
Office, Medical		/ 200 per space	= 0 spaces
Restaurant, sit	(Total (B))'s	from sit -down wkshts.)	2.2 spaces
Restaurant, take		/ 75 per space	= 0 spaces
Electronic Games		/ 400 per space	= 0 spaces
Other-		/ 1 per space	= 0 spaces
Other-		/ 1 per space	= 0 spaces
Total(B):			21.133333 spaces

Parking Exclusions/Exemptions

Type of Exclusion: Downtown 1 to 1 FAR Exemption

Existing Site Floor Area	4360	-	Excludable Area	2430	=	Countable Area	1930	=	% of Total(A)	0.4426606
Proposed Site Floor Area	4530	-	Excludable Area	2430	=	Countable Area	2100	=	% of Total(B)	0.4635762
	Total(A)		%'age(A)		=	Net Reqt.(A)				9
	19.533333	x	0.4426606		=					
	Total(B)		%'age(B)		=	Net Reqt.(B)				10
	21.133333	x	0.4635762		=					

Net Requirement for Proposed Project

Net Reqt.(B)	10	-	Net Reqt.(A)	9	=	Project Requirement	1
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SIT DOWN RESTAURANT PARKING CALCULATION WORKSHEET
 (Quantities are square feet unless otherwise noted)

PROJECT: Bacchus

Existing Parking Requirement(A):
 (if existing facility is to remain & project < 50%)

Use	Quantity	Req't		Spaces Required
Dining		/ 50 per space	=	0 spaces
Bar w/o Entertainment		/ 50 per space	=	0 spaces
Bar w/ Entertainment		/ 35 per space	=	0 spaces
Entertainment		/ 35 per space	=	0 spaces
Pool Tables		/ 1 per space	=	0 spaces
Electronic Games		/ 400 per space	=	0 spaces
Accessory Retail		/ 200 per space	=	0 spaces
Total(A):				0 spaces

Proposed Parking Requirement(B):

Use	Quantity	Req't		Spaces Required
Dining		/ 50 per space	=	0 spaces
Bar w/o Entertainment	290	/ 50 per space	=	5.8 spaces
Bar w/ Entertainment		/ 35 per space	=	0 spaces
Entertainment		/ 35 per space	=	0 spaces
Pool Tables		/ 1 per space	=	0 spaces
Electronic Games		/ 400 per space	=	0 spaces
Accessory Retail		/ 200 per space	=	0 spaces
Total(B):				5.8 spaces

Parking Requirement Exclusions/Exemptions (once only):

Type of Exclusion: Downtown 1 to 1 floor area exemption

Total Rest. Area	-	Excludable Area	=	Countable Area	=	% of Total
		0		0		#DIV/0!

Total(A)		%age	=	Net Reqt.(A)
0	x	#####		#DIV/0!

Total(B)		%age	=	Net Reqt.(B)
	x	#####		#DIV/0!

Net Requirement for Proposed Project

Net Reqt.(B)	-	Net Reqt.(A)	=	Project Requirement
#DIV/0!		#####		#DIV/0!

APPEAL OF USE PERMIT FOR ON-SITE CONSUMPTION
1000 Manhattan Ave (Bacchus)
Martha Andreani (117 10th St) and Donald McPherson (1014 1st St)
9 February 2005

SUMMARY

We base our appeal on many errors and deficiencies in Resolution 05-xx, approved Jan 12 by the planning commission. Some of these problems occurred because staff neglected to review the 1980 coastal and building permit requirements for 1000 Manhattan Ave, until reading our input to the planning commission on January 12, the day before the public hearing.

During hearings in 2000 on the Bacchus proposal for wine bars on the 10th St walkstreet and inside the store, residents provided overwhelming evidence that the wine store operates in violation of its ABC license that requires non-alcohol revenues to exceed wine sales. The city continues to turn a blind eye to this infraction, despite requiring use permit holders to comply with ABC requirements. At the Jan 12 public hearing, the applicants testified that they do not comply with the 50% non-alcohol sales requirement on their license, a condition required by the ABC Act and not subject to discretionary interpretation or modification by the Inglewood ABC office. On 22 January 2004, the applicants told nine residents, including us, that Bacchus never has complied with the ABC condition, does not now and never will (Attachment C.)

A summary listing of errors and deficiencies in the resolution follows:

1. Parking
 - The Local Coastal Plan (LCP) requires 15 parking places for the proposed use
 - Six required by 1980 coastal and building permits
 - Seven for converting required 1419 SF storage area into retail
 - Two for converting 100 SF retail area into wine and food consumption
 - By overlooking the 1980 permits, staff omitted 13 required spaces
 - The Jan 12 staff report to the PC erroneously states no potential exists for parking. The applicant can meet the 15-space requirement with two commercial parking permits and 13 in-lieu payments, being located in Vehicle Parking District No 1.
2. Apparently, unauthorized 2nd-floor improvements exist in storage area, in violation of 1980 coastal and building permits
 - The city cannot approve a use permit for a non-compliant building
 - Planning commission directed an inspection of the storage area; status unknown
3. Resolution approved by PC lacks a condition requiring applicant to obtain Type 42 license from ABC and permit for food consumption from County Health Department
 - Condition must state compliance with ABC and Health Department requirements
 - For text, see operational Condition 4 in Resolution 04-11 (Sepulveda Wine Co.)
4. Bacchus admittedly operates in violation of ABC license conditions
 - Resolution will require compliance with ABC regulations
 - City cannot approve a use permit for a business already in violation of conditions

DISCUSSION

A brief discussion of the above items and the issue of intensity follows. The quality of the coastal permit copies do not lend themselves to reproduction. In Attachment A, we list the conditions imposed as a guide to the discussion. In microfiche slides on file at the city, the building permit includes the coastal permit pages and references it as a requirement.

Parking. The planning commission never had the opportunity to evaluate parking requirements in a valid context, because staff overlooked significant pre-existing requirements established by the 1980 coastal and building permits, when the property owners performed a remodel and second-story addition to the original building at 1000 Manhattan Ave. Staff suggested to commissioners that they approve the resolution subject to compliance with the coastal permit. Until staff issues their report Friday Feb 11, we remain uniformed how the city will handle the problem they created.

The LCP clearly establishes in A10.64.020 C the validity of pre-existing parking requirements for applications that change use. “In this case, the number of (*pre-existing*)spaces in excess the prescribed minimum shall be counted in determining the required number of spaces.” (*Parentheses added.*) Staff states that the 1980 remodel and second-story addition predate parking requirements, therefore, the building is grandfathered and has no pre-existing parking requirements. Not true, by virtue of their error not to incorporate the valid 1980 permits.

Furthermore, the LCP does not provide any discretion to reduce or eliminate the pre-existing six required spaces. At A10.64.020 C, the LCP states, “The number of parking places and loading spaces required for an alteration or enlargement not classified as “major”, pursuant to subsection (A) above, of an existing use or structure, **or for a change of use**, shall be **in addition to the number of spaces existing prior** to the alteration, enlargement, or **change of use** unless the pre-existing number is greater than the number prescribed in this chapter.” (*Emphasis added.*)

In their January 12 report to the planning commission, staff stated that according to LCP requirements, if the building were not grandfathered, under its current use, it would require nine spaces. For wine and food consumption in 100 SF, they identify one additional space for a total of ten, which exceeds the pre-existing number of six required by the 1980 permits. Consequently, under the non-discretionary requirements of A10.64.020 C, staff should have identified ten plus six spaces, for a total of sixteen, a reasonably close approximation to our precise determination of fifteen spaces. For their calculation, staff used a spread-sheet algorithm not applicable to the mixed-use scenario for 1000 Manhattan Ave.

The determination of parking requirements for the proposed Bacchus use is quite simple:

-Spaces required by 1980 coastal and building permits:	6.0 spaces
-Conversion of 100 SF from retail to wine and food consumption	1.5 spaces
-Conversion of 2 nd -story 1419 SF from storage to retail	<u>7.1 spaces</u>
Total	14.7 spaces

The LCP, at A10.64.020 I, requires fractional spaces of a half or more rounded up to unity, in this case, a total of 15 spaces for the proposed change in use.

No discretion exists to reduce these parking requirements. If exercise of discretion to permit wine consumption for Bacchus complied with the LCP, that decision could not be appealed to the Coastal Commission. Approval of the Bacchus use permit violates the LCP parking requirements, however, and that unlawful act is appealable to the Coastal Commission.

The 12 Jan staff report to the planning commission erroneously states that no potential exists to meet parking requirements. The LCP, at A10.060.070, specifies for Vehicle Parking District 1 (VPD-1), where the premises lay, that parking requirements of up to 20 spaces can be satisfied by in-lieu payments. City policy permits two commercial parking permits per business, applicable to Lot 1, which lies within 1000 feet, as required by LCP, at A10.64.020 F.2. The applicant can therefore meet parking requirements with two permits and 13 in-lieu payments, albeit at an upfront cash payment of approximately \$400,000. (They currently have only one parking permit, in violation of 1980 coastal and building permits requiring six.)

In recent years, the city has consistently applied parking requirements; in my experience, Sepulveda Wine (2004) and Sloopy's sidewalk encroachment (2002). The council came close with the Deli at 35th St in 2001, but in an ill-advised last minute change, waived parking. I believe that one of the restaurants near Hennessey's (or maybe even them) wanted to convert upstairs apartments to offices, but chose not to when the city imposed additional parking requirements. Downtown sidewalk dining requires parking. Why then, bend over backwards and grant special privileges to accommodate Bacchus for their supposed 'wine tasting'? The latter being not at all authentic, served with meats, dairy products, breadstuffs, nuts, fruit and tapas prepared on- and off-site.

Apparent Unauthorized 2nd-story improvements in required storage area. In 1980, when the city and the Coastal Commission approved the remodel and second-story addition at 1000 Manhattan Ave, they recognized the intensity impacts and required six parking places. They also recognized the supposed 'shoe storage' area as a sham and required it to remain as storage, recorded with a deed restriction. Drawings in the building permit on file as microfiche label the area as storage. The building owners accepted the conditions, then promptly violated them, at a minimum, to avoid paying parking fees or leases for 25 years. Presumably, they also received benefits from using the 'storage area' as offices or other uses during that time.

In any case, the new resolution authorizes the use of the storage area for retail sales. It is this change in use from storage to retail in the resolution that triggers the seven-space increase in parking.

Deficiencies in the Resolution. We have not seen the resolution as revised by staff in response to planning commission direction, so make some general comments. As the case with the Bacchus application in 2000, the present applicants propose much more than authentic wine tasting to help customers select purchases. Their proposal includes unlimited three-ounce pours and a wide variety of foodstuffs prepared on- and off-site, as well as extension of hours from 7 PM to 8PM Mon-Wed and 9 PM Thu-Sat, the usual ploy of applicants to keep incrementally expanding with each successive application. At the Jan 12 planning commission hearing, staff suggested that the five-pour one-ounce condition for Sepulveda Wine be included in the resolution. Why did staff wait to orally suggest what the city council claimed in August to be a standard for wine tasting?

In August 2004, the city council approved wine tasting for Sepulveda Wine Co, stating that the use permit would set the city standard, whereon guidelines existed previously for consumption in an off-sale store. If Bacchus really wanted to limit their use to wine tasting, then they would have followed the standard supposedly established by the council for Sepulveda Wine. If staff believed that the council had set a standard, then they would have restricted the hours and other operational conditions for Bacchus to those in the Sepulveda Wine permit.

Clearly, neither Bacchus nor staff views this proposal as limited to wine tasting, nor do they view the Sepulveda Wine permit as a standard, which the council so stated.

Speaking of standards, staff should have guidelines to prepare use permits for wine tasting, as we requested last year. If they did have such standards, then they would not have mistakenly left out the requirement that the applicant must obtain a Type 42 license from the ABC and a permit from the County Health Department, and comply with requirements therein. In the resolution approved by the planning commission, Condition 4 under Site Preparation/Construction does not make sense. What is an "...applicable Building Division, Health Department, and Alcoholic Beverage Control.", as that condition reads? At least they should get the boilerplate right.



Food consumption requires Bacchus to have daily garbage pickups. With 1000 Manhattan Ave designed as a shoe store, it does not have adequate trash storage. For decades, the tenants disposed their trash in containers along Manhattan Ave, until being recently caught doing so by Waste Management. Now they pile the trash at the back of the building and must cross McPherson's property at 213 10th St to access the area. The weekly trash pickup on Tuesday afternoons shown in the photo of the 10th St walkstreet will now be replaced by a daily lineup for garbage collection.

Bayview Drive is entirely residential, now that the city rezoned the area between 10th and 12th Streets. What kind of planning does the city do? They rezone an area residential and then grant wine and food consumption to Bacchus on the next block at Manhattan Ave, which requires their garbage cans on the walkstreet at Bayview every night to be picked up by a truck early the next morning, seven days a week. The alleged wine tasting does not need anything more than breadsticks for palate cleansing. Bacchus does not propose wine tasting. They propose wine partying, hence the need for daily garbage collection on a residential street that formerly did not have it.

Bacchus Admitted Violation of ABC License Condition for Non-Alcoholic Sales

In formulating the 1963 ABC Act, the state concluded that California had too many alcohol licenses, and imposed barriers for issuing more, such as the finding of public convenience or convenience that the council must make to grant the Bacchus use permit for a Type 42 beer and wine consumption license. One such restriction in the Act addresses beer and wine stores in Los Angeles County, the condition that non-alcohol revenues must exceed wine sales (Attachment B.) The Bacchus license issued in 1998 includes this condition, intended to prohibit any more licenses solely for beer and wine off-sale, except in cases such as grocery stores (Trader Joes, Manhattan Grocery, Ralphs, Vons, etc.) A wine store operating under this condition, which Bacchus admits to violate, does not constitute a viable business model.

Manhattan Beach has many businesses that specialize in or emphasize wine, such as Sepulveda Wine and Manhattan Liquor, these being liquor stores licensed before 1 July 1963, when the 50% condition became effective. In 1995, Manhattan Liquor on Artesia Blvd received approval for a Type 20 license to establish a new wine store in MB on Sepulveda Blvd. When becoming aware of the 50% non-alcohol condition, the applicants chose not to accept the license. To the best of my knowledge, during the last ten years in MB for new beer and wine off-sale stores, only Bacchus has executed a conditional agreement with the ABC to operate a Type 20 license in compliance with the 50% requirement. Considering the faddishness of wine appreciation, presumably, other business people would have liked to open wine shops, but did not, fearing to operate in violation of their alcohol license, as Bacchus admittedly does.

If someone really wants to have a wine shop, then they pay the going price to buy an old liquor store that predates the 1963 Act, such as Marv's, now Sepulveda Wine. The conditions in the ABC Act have had effect. In MB, several liquor stores have gone out of business and others have converted to specialty wine emporiums.

The applicants do not want to pay the entry fee, as other responsible owners have, and therefore try to grow the former shoe store at 1000 Manhattan Ave into a lucrative venture, but only by violating the condition on their license, which they swore under penalty of perjury to uphold. Fortunately, Manhattan Beach owners overwhelmingly operate their businesses honestly.

Attachment C is the letter from nine residents, including us, attesting to the applicants' boasts regarding their violation of the alcohol license.

Attachment A

Conditions in Coastal Development Permit for 1000 Manhattan Ave (Bacchus)

Coastal Development Permit, P-80-6669, 22 August 1980

Conditions:

- A. Prior to issuance of the permit, the applicant shall:
 1. Submit revised plans for approval wherein the proposed building height is no higher than five (5) feet above the existing structure
 2. Submit a deed restriction for recording that limits the use of the loft space to storage use only, plus office space
 3. Submit revised plans for delineating the office space
- B. The applicant shall, prior to occupancy, submit evidence that six off-site parking places that meet Commission requirements have been obtained for the applicant's use.

Attachment B

Government Code 23826.2 Requiring Bacchus Non-Alcohol Revenues Exceed Wine Sales

23826.2. No new off-sale beer and wine license shall be issued in a county of the first class, as specified in Section 28022 of the Government Code, unless it is issued with conditions, pursuant to Sections 23800 and 23801, which provide that the sale of products other than beer and wine on an annual basis, measured by gross receipts, shall exceed the annual sales of beer and wine products measured by the same basis.

Los Angeles County is the only county of the first class, having a population over four million residents.

Attachment C

Letter from Nine Residents Attesting to Bacchus Applicants' Statements re Violation License

12 January 2005

Planning Commission
City of Manhattan Beach
Via Email and Direct Submission to the Record

Subject: Mr. Ron Miranda Statements that Bacchus Violates ABC License Condition

On 22 January 2004, applicants Ron Miranda and Charlie Bean met us to discuss their proposed wine tasting at Bacchus, 1000 Manhattan Ave. As part of the discussion, a resident asked Mr. Miranda what percentage of his sales was non-alcohol. He replied less than ten percent. Another resident then asked how could he meet the condition in the ABC license that non-alcohol sales exceed 50% of total revenue. Mr. Miranda replied he could not, they did not, and that Bacchus never had.

Signed,

Martha Andreani, 117 10th St
Susan Hatcher, 125A 10th St
Paul Hatcher, 125A 10th St
George Kaufman, 121 10th St
Jacque May, 233 10th St
Jeanne McPherson, 1014 1st St
Donald McPherson, 1014 1st St
Kathy Smith, 121 10th St
Dale Thums, 233 10th St