

# Shade Hotel

from page 2

on a PA., so I put in my own plugs for the microphones,” he said. “For the Miss America contest, diesel buses pulled in on Valley. Now they would go to Morningside. Every time there is a problem, we try to correct it right away.”

Then two weeks ago, A USC Trojan broadcast caused a considerable din. Zislis believes the sound study will show most of the noise results from the front door being open—as was the case during the auction—and not so much from the sky deck or the center area between the adjacent Sashi Sushi and the hotel entrance, as a number of people assume. “We’re looking at a double door with a sound barrier front exiting onto Valley, but we’d like some give,” he said, alluding to that extra hour. The remedy in question would run Zislis more than \$60,000.

Zislis added that he is pleased a professional firm will hopefully soon offer a solution to address the ongoing noise issues. “We have to develop a fine line between reasonable noise and *noise*,” he emphasized. “We’re in a commercial district and the residents bought houses on the edge of commercial, so there is some noise associated to it. Ask people who live near Von’s, or a fire station, or restaurants downtown...Some people just have zero tolerance. The majority of them feel the hotel is [going to be] there forever and let’s work with me to mitigate the sound and let me have my extra hour. It’s not like I’m asking for the world. But I think 20 percent of them would like to see the hotel close and move to another city.”

One of Zislis’s most vocal critics, local resident and retired engineer Don McPherson, has conducted his own “mitigation matrix,” which he submitted to the City for consideration. In it, he identified various locations in the hotel as disturbance sources and suggested more than 20 possible remedies ranging from Acousti-Curtain material to sound absorption panels and gates. His analysis showed noise emanating at key times from the lobby entrance and driveway, the Zinc Lounge and terrace, the waiting queue between Shade and Petros Restaurant, and the courtyard and sky deck during special events.

McPherson sees the Shade issue as part of a much bigger concern. “Starting about 15 years ago, downtown on weekends and holidays turned into a combat zone and streets were teeming with people because of the local bar scene,” he explained. “The City began issuing use permits to take the downtown back by applying a number of conditions that forced premises to operate more as a restaurant than a bar. One way was to reduce closing times from the standard 2 a.m. to midnight, which is more consistent with a restaurant operation. So now we have Shade, which in my opinion is in violation of the municipal code and is asking for an increase in hours. I see this as a reversal of policy.”

The code violation in question is the City’s noise ordinance. Section 5.48.140 states: “Notwithstanding any other provisions of this chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness.”

According to McPherson, the ordinance sets an extremely low threshold for violation. “Namely, that no person shall make

or continue to make any noise that causes discomfort or annoyance to any reasonable person of normal sensitiveness,” he explained. “In my opinion, based on residents’ testimony and commissioner comments, Shade violates Section 5.48.140, although the City has not made a formal declaration regarding the issue.” McPherson also called for an independent audit to determine if Shade sells more alcohol than food and is thus in violation of conditions in its liquor license. Zislis told the Planning Commission in July that he is in compliance.

Many of the issues surrounding Shade can be traced back to the hotel’s origins. Long before Zislis came into the picture, Metlox developer Jonathan Tolkin envisioned a quiet bed and breakfast concept at the site. But those plans fell by the wayside when the B & B operators pulled out of the project, feeling it wouldn’t be profitable. Zislis at the time hoped to establish a Mucho restaurant where Deli Boys eventually opened and where Sashi is now. “I met with the landlord, who suggested I do the hotel,” Zislis said. “I love the hospitality industry and I thought, ‘Why not?’”

A year before opening, Zislis came to the Manhattan Beach City Council with plans for a luxury boutique hotel with a tapas (small plates) lounge, sky deck, and wedding venue component that he was confident would prosper at the location. Since Zislis wasn’t the original hotel operator, he was essentially pre-approved except for one change connected to a technicality with Alcohol Beverage Control (ABC): He couldn’t have in-room mini-bars without applying for a full liquor license throughout the hotel. That change proved to be significant.

“He changed the marketing,” said Jester. “Instead of a little, quiet bed and breakfast where people are sipping tea in the lobby or having afternoon cocktails, the marketing changed where it became a much more contemporary hotel and feel catering to the beach cities’ environment. Otherwise, it has the same number of rooms and layout. It was just a different approach, and that approach created more people and more demand... and with success came people, noise and traffic.”

When Zislis filed for his recent CUP change, he maintained that neighboring restaurants Sashi and Petros are allowed to stay open until 1 a.m. on weekends, so why shouldn’t he be permitted to do the same? “My argument is and I’m sticking to it is that 11 is not normal,” he said. “Tell me a business you shut down at 11 that is a tapas lounge. Can you imagine last call at 11?”

Some residents have complained that Zinc actually stays open much later than the prescribed 11 p.m. and suggested that patrons are continuing to be admitted after the posted closing. To that, Zislis replied, “I can’t get everyone out until 11:30, but I do close at 11. Liquor sales stop and no one is allowed in. If there is a line, we tell nicely them to please go home.”

Critics also maintain that Shade is in violation because it was only supposed to offer breakfast, lunch and use of the pool to hotel guests. But the word “guest” is subject to interpretation. Is it someone actually staying at the hotel, or one who pops in off the street to grab a bite? “I feel guests are anyone visiting the hotel,” said Zislis of the food service. “The pool comment I don’t understand. It is for paying guests of the hotel. I have pool parties on Sundays in

the summer. That’s what they [the residents] must be upset about. They pay a fee to use the pool.”

Jester confirmed that there is nothing in the original CUP that states the pool is only supposed to be open to guests. As far as defining “guests” as anyone who comes to the hotel, she said the Planning Commission didn’t express a concern about modifying the CUP to note otherwise.

As for those who complain that the property was supposed to be a bed and breakfast, Zislis responded, “People keep bringing up the B & B, but I had a 40-foot bar and a sky deck, and there was no secret to what I was doing.”

As part of his pending CUP change, Zislis also asked for two other items. He dropped a request to allow dancing at times other than special events. He also sought to increase the minimum guest number threshold at which he must notify the City about a special event. Currently, if an event is to have 100 or more guests, Zislis must contact the City a week in advance. He initially asked to up that number to 150 and then lowered it to 125, arguing that most of his special events average 120-125 people, though he is allowed to have as many as 250.

But after all is said and done, the extra hour is the big thing and the main bone of contention, noted Jester. “The bottom line is noise in the middle of the week late at night,” she said in a nutshell. According to Jester, local police came to Shade 20 times between May 2008 and May 2009 in response to disturbance complaints from residents within a two-block radius of the hotel. “Shade has been very cooperative—they are trying to address neighbor concerns and have installed a number of sound attenuation measure and changed operations,” she said. “They’re looking at it as a balance.”

Whether or not Zislis can ultimately satisfy resident concerns remains to be seen. Nate Hubbard, who lives at 13<sup>th</sup> Street and Ardmore and serves as the representative for the residents’ group, said the protest could be pulled if proper mitigation steps are made, perhaps paving the way for Shade’s extra hour. “A number of changes have been done—they used to keep the front door open facing east and now it’s closed, and they were doing valet pick-ups and drop-offs in front of the hotel on Valley and 12<sup>th</sup> and people were coming out of the bar inebriated and loud-talking,” Hubbard said. “There must be some kind of weird geologic anomaly there where all the houses on Ardmore can hear a lot of conversation when someone’s waiting for their car. We’d have to call up Shade and tell them patrons were out front, so can you get them back into hotel to wait for their cars. We were up late at night calling them. They changed their valet and taxi pick-up underground, which relieved some of the noise.”

Hubbard reported that the Zinc Lounge outside tables also have been a source of noise. “They used to simply have a curtain and at one point, the noise was coming not only east up towards our houses, but also southeast,” he said. Zislis ultimately walled in that side to remedy the problem.

Though Hubbard admitted that Zislis has been amenable to making changes, he doesn’t feel enough mitigation steps have been taken. “That’s why this acoustic study has come in,” he said. “We’re still aghast at the amount of noise that continues to come from Shade.”

Asked what still hasn’t been done, Hubbard said that the Zinc Lounge remains open to the south side with standard curtains going across rather than rated acoustic curtains that would cut down the noise traveling down 12<sup>th</sup> Street. “Also, the top is open above the curtains, so it goes out the top and travels along the street,” he contended. “There is also the annoyance of the third floor lounge, which was only supposed to be a hot tub but is a small swimming pool turned into a happening place to go where people are on microphones doing silent auctions. And there is still noise from events like weddings, receptions and AVP volleyball hostings. As residents, a number of rooms face north on the corner of the hotel. People at the hotel can go out on the balconies and continue to party. We’re calling Shade that they have people out on the balconies making a ruckus and waking us up.” Hubbard added that he couldn’t begin to guess how many hours of sleep he and some of his neighbors have lost due to the disturbances. Tops on Hubbard’s mitigation wishlist are to move Shade’s formal entrance to the west towards Morningside, and to enclose Zinc Lounge, projects he conceded would add up to huge expenses for Zislis.

While Zislis has his detractors, he also has his share of community support. One proponent is local resident Kurt Schlichter who owns a small law firm downtown. “Mike is everything you want an entrepreneur to be,” he said. “He tried to meet every concern at the Planning Commission meeting and tries to do everything right. As a citizen, businessman and resident, I want to stand up for him. It rubbed me the wrong way what people were doing. It should be, ‘Let’s compromise,’ but their idea of a compromise was the most unreasonable and exacting demands. I stand up for the little guy and in this case, Mike’s the little guy. If you buy a place next to a business district where people want to be at night, you shouldn’t be shocked. It’s unfair to assume that the vacant lot that became Metlox would be silent forever. I deal with disagreements for a living. In this case, I don’t see any flexibility from the other side. He’s practically doing the limbo to meet the needs of these people. I don’t think some of them will ever be satisfied and they aren’t attempting to resolve it in good faith.”

In the meantime, Zislis has had to deal with another obstacle aside from resident complaints—the recession, which has taken its toll on the hospitality industry regionally. Though Shade’s occupancy hasn’t declined, revenues at the hotel are down because corporations have renegotiated rates. Bar receipts are also down about 10 percent, though that is fairly typical in these times even for the most viable businesses. Zislis went on to point out the benefits the hotel offers to the community. “Shade is a great local area for meetings, local events and weddings,” he said. “It’s also a great tapas lounge and gathering place very different from anything else in Manhattan Beach. It’s not a dance club, but a place to go before or after dinner.”

A place to go or not, the residents upset about the noise refuse to set foot in the hotel, according to Hubbard who said he has only been inside Shade on two occasions, once to meet with Zislis and the other for a City event. “This has been very contentious,” he said. “I think the City made a huge mistake when they allowed this—now it’s a big bar.



**BRIAN R. BRANDLIN ■ BRUCE R. BRANDLIN**

**ATTORNEYS AT LAW**

LIFETIME EL SEGUNDO RESIDENTS

- Living Trusts/Wills • Business Transaction/Organization • Probate
- Contracts/Licensing Agreements • Guardianships/Conservatorship
- Personal Injury • Business Succession Planning • Corporate Financing

**■ 310-540-6000 ■**

\*AV Rated (Highest) Martindale – Hubbell

\*\*Certified Specialist Estate Planning, Trust & Probate Law, State Bar of California, Board of Legal Specialization

Wireless AMBER Alerts

