



# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5<sup>th</sup> Floor      Long Beach, CA 90802      (562) 570-6194 FAX (562) 570-6068

November 3, 2016

CHAIR AND PLANNING COMMISSIONERS  
City of Long Beach  
California

## RECOMMENDATION:

Receive supporting documentation into the record, conclude the public hearing and accept Categorical Exemption CE 16-247, revoke the Conditional Use Permit and Standards Variance (Case No. 9505-01) for a tavern; revoke the business licenses for the operator (Enaid's Way Inc., DBA Miko's Sports Lounge, including but not limited to BU21338610, BU21338620, and BU21338630); and revoke the property owner's business license (Ronald L. Mackey and Peggy C. Mackey Trust, including but not limited to BU90057720) for the property located at 710 West Willow Street in the Community Commercial Automobile-Oriented (CCA) zoning district. (District 7)

PARTIES:      Dede Yancey, Enaid's Way Inc. DBA Miko's Sports Lounge (Operator)  
710 W. Willow Street  
Long Beach, CA 90806

Ronald L. and Peggy C. Mackey Trust (Property Owner)  
10935 Darby Avenue  
Northridge, CA 91326

## DISCUSSION

The subject site is a 5,500-square-foot parcel on the south side of Willow Street between Maine Avenue and Oregon Avenue in the greater Wrigley community (Exhibit A – Location Map). The property is located within the Community Commercial Automobile-Oriented (CCA) zone and is developed with a 2,950-square-foot tavern. The bar is among a string of one- and two-story commercial buildings that line the north and south sides of Willow Street. South of the site, across a public alley (25<sup>th</sup> Way), lies a residential neighborhood of predominantly single-family homes.

On June 15, 1995, the Planning Commission approved a Conditional Use Permit (CUP) for a tavern (bar) with four pool tables and a Standards Variance for six parking spaces, instead of the eleven spaces required, subject to conditions of approval (Exhibit B – Case 9505-01). Since that time, the bar has operated under various names and business owners including the Puka Bar, the Sandbar, and on or around December 27, 2013, began

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operations as Miko's Sports Lounge, operated by Dede Yancey, Enaid's Way Inc. DBA Miko's Sports Lounge (Miko's).

On June 20, 2016, the Long Beach Police Department requested revocation of the business license for Miko's due to the creation of an ongoing pernicious public nuisance. A nuisance is a condition or activity that affects a substantial number of people at the same time, and a public nuisance is broadly defined as "*acting or failing to act such that a condition is created that is harmful to health, indecent or offensive to the senses, an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, unlawfully obstructs the free passage or use, in the customary manner, of any public street or highway.*

On August 9, 2016, in accordance with LBMC 2.93.050 (Hearing Procedure – City Council), the Long Beach City Council designated the Planning Commission as the Hearing Officer to conduct a revocation hearing for the business licenses associated with the property and the business operation. Accordingly, the Planning Commission will conduct a public hearing for revocation of the CUP and Standards Variance for the bar, revocation of the business licenses for the bar, and revocation of the business license for the property owner. Findings for the basis of each of the three revocation actions requested are provided (Exhibit C – Findings).

It is the collective determination of multiple City Departments that the current business owner has not operated Miko's in compliance with the provisions of the approved CUP or the Long Beach Municipal Code (LBMC), resulting in nuisances that have warranted revocation of the CUP and the business licenses for operation of the bar. Pursuant to LBMC Section 21.21.601 (Revocations), the Planning Commission has the authority and obligation to revoke a CUP if it finds an approved use is not operating in compliance with the terms of the approved CUP or any other provisions on the LBMC.

Based upon the evidence presented in this report, as well as testimony during the public hearing, the Planning Commission must determine whether the operation of the bar has violated any of the conditions of approval for the CUP, whether the operations at the bar violate the broader provisions of the CUP found within LBMC 21.52.010 (Conditional Uses - Purpose) and LBMC 21.52.201 (Alcoholic Beverage Sales Uses), or whether the operation is in violation of any other provisions of the LBMC. An affirmative finding that the operation is in violation of any of these provisions requires revocation of the CUP and Standards Variance. Further, as the hearing body for revocation of the business license, the Planning Commission is also tasked with determining whether the business licenses for operation of the bar and/or the property shall be revoked pursuant to LBMC 3.80.429.1 (Business License Tax – Suspension or Revocation).

### Summary Background and Chronology

The record demonstrates that operation of the subject bar has created a nuisance to the general area and to the adjacent residential neighborhood in particular. The record is summarized in a condensed chronology of events and City interactions with the operator of Miko's Sports Lounge, and events and City interactions with the property owner (Exhibit

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D – Summary Chronologies of Events and Interactions). A detailed folder of exhibits including documents, records, and communications, as well as a comprehensive chronology of events and interactions between the City, Miko's operator, and the property owner is also included (Exhibit E – City Attorney Exhibits Folder).

**Violation of Special Conditions of Approval for CUP No. 9505-01**

Conditions of approval are imposed on CUPs because an underlying use may not be compatible with surrounding uses. The imposition of conditions of approval can mitigate a potentially impactful business to an extent that different uses can be made compatible (LBMC 21.52.010). A bar or tavern illustrates this concept, as the noise, boisterous patron behavior, and late hours of a bar are incompatible with the quiet enjoyment of adjacent residences. However, the two uses may peacefully coexist if the noise and patron activity at the bar can be isolated from the nearby residences.

In this case, the CUP for the subject bar included 20 conditions of approval, two of which are particularly relevant to this revocation proceeding.

**Condition #14** – The operator of the use shall provide security measures to the satisfaction of the Chief of Police.

**Condition #20** – The applicant/developer shall be required to provide for and maintain five additional parking spaces from adjoining property owners by shared use agreement for the use of said parking after 5:00 P.M. seven days a week to the satisfaction of the Director of Development Services. Such agreement shall be recorded with the Los Angeles County Recorder's Office.

In this case the condition to provide on-site security was designed to keep patrons and noise under control; and the condition to provide additional parking was intended to isolate the late-night patrons from using adjacent residential streets for parking, contributing to noise and other disturbances. The failure of the business to comply with these conditions has caused detrimental impacts on the residents of Maine Avenue and other residential streets including Oregon Avenue.

While the business has security guards and a security plan, the LBPD has determined the plan to be inadequate based on the following:

- On non-event nights the establishment uses only one security guard who monitors the front door, the back parking lot, and Maine Avenue. This security guard also works as a bar back to clear tables and check the ice.
- On busier nights there are two security guards, but they do not effectively control the rear parking lot to keep noise and boisterous activity to a minimum. (The LBPD recommends the use of three security guards on busy nights).
- For planned events, one security guard per 50 patrons is required by LBPD. No provisions for compliance with this standard are included in the security plan provided to LBPD.

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The strongest evidence of the ineffectiveness of the security plan used by the bar is the continued high rate of calls for service, noise complaints and general nuisance associated with the establishment. Considering the history of complaints and incidents, some of which are violent, it is inappropriate to have security staff assigned to other duties regarding bar operations such as clearing tables and restocking ice. The failure to secure the rear parking area has a direct pernicious impact on adjacent residents that are subject to loud noise, profanity, indecent behavior and other disturbances during late-night hours. These types of violations have been documented and ongoing.

The close proximity of Miko's to the residences on Maine Avenue and Oregon Avenue necessitates safe, accessible parking that is not located in the residential neighborhood. Bar hours typically overlap with the hours many families spend in quiet enjoyment and sleeping. Many of the complaints regarding Miko's stem from customers parking on Maine Avenue, making noise while loitering in and around their car, as well as altercations on their journey to and from their car after hours when most residents are sleeping.

The parking plan provided by the business owner to comply with the parking condition expired almost immediately after it was executed and was never recorded with the Los Angeles County Recorder as required. The hours that the bar's plan included for its parking is from 9:00 P.M. to 2:00 A.M. rather than the 5:00 P.M. start time required in the CUP. It is clear that sufficient parking has not been provided to limit the impacts of the bar's operation on the adjacent neighborhood, nor does the plan meet the requirement of the condition. This violation is documented and ongoing.

**Violation of Standard Conditions of Approval for CUP 9505-01**

Business and property owners have responsibilities beyond the specific conditions imposed in approved CUPs. These responsibilities include operating in a manner consistent with the intent of the LBMC and with due consideration to surrounding properties. The purpose of these general conditions is to prevent public nuisance or impacts to surrounding properties and uses. LBMC Section 21.52.010 describes this purpose and LBMC Section 21.21.404 provides the Department of Development Services with the jurisdiction for monitoring continued compliance with the provisions and conditions of approved permits. This land-use authority is an extension of the City's police power which functions to protect the public health, safety and general welfare of residents.

In this case it is clear that the business has not been operated in an appropriate manner despite numerous interactions with the City. The operation of events without an Occasional Entertainment Permit and without regard to surrounding residents has interfered with public health through noise and disturbance; parking intrusion and patron behavior has interfered with the normal access of public streets. The failure of the establishment to provide consistent and appropriate site security and control its patrons has resulted in multiple stabbings and at least one shooting. The standard is not that a business must operate perfectly or be beloved by its surrounding community. The City's use of its revocation power is rare but important for the most extreme cases where an owner is in constant violation of approved conditions, and where other enforcement mechanisms have failed. In this case 250 calls for service were logged between January

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2014 and May 2016, establishing a clear record of negative impacts from the bar. Because of the continued disregard to the City and community concerns and the continued lack of responsibility exhibited by both the business owner and the property owner, staff is left with no other option than to pursue the revocation of approved permits.

**Violation of Other Provisions of the LBMC**

On September 9, 2015 and May 20, 2016, the property was cited for work done without building permits. The corresponding building permit and enforcement case remains unresolved. Combined with the business owner's disregard for the LBMC - including two violations of hosting entertainment without an OEP and noise and food violations from the Health Department, as well as criminal activity at the subject property, it is necessary to revoke the CUP in order to bring the property into overall compliance with the LBMC.

The establishment has furthermore created a nuisance as defined in LBMC 21.15.1870. The operation of the Miko's establishment has, does and will interfere with the use and enjoyment of property, endangers personal health, public health, safety and is offensive to the senses. The record has demonstrated that the lack of parking, and particularly the lack of control of patrons traveling to and from their vehicles, has impacted the use of property on Maine Avenue and area streets. Specific instances of blocked access have been identified as well as numerous calls for service associated with loitering and offensive activities in and around vehicles belonging to Miko's patrons.

Noise, particularly late night noise, has been shown to negatively impact personal health. In this case, the late night noise impact extends to a number of area residents. The failure of Miko's to control on-premise noise, the hosting of special events, without proper permits, and the use of amplified sound without proper permits or controls, has had a direct and detrimental impact on the health and wellbeing of area residents. This impact has been sustained and unabated over the years of Miko's operations.

Stabbings, shootings, loud arguments, public intoxication, lewd public acts, and other crimes and nuisance activities have all been associated with the operation of Miko's. This pattern of behavior endangers the safety of the area and robs area residents of the peaceable enjoyment of their property. The lack of adequate security controls and the disregard for rules and regulations demonstrates that the violation of the conditions of the CUP and Standards Variance will continue unless assertive action in the form of a revocation is taken by the City.

**Responsibility of the Property Owner and Business Owner for Compliance with Conditions of Approval and Other LBMC Code Provisions**

The CUP and Standards Variance for the subject property are examples of discretionary entitlements that once approved, run with the land unless revoked. Such entitlements are an enhancement to the value of the property that accrues to the owner as they permit activities and uses that have been carefully assessed and conditionally approved, and that are not routinely permissible except through a rigorous public hearing process. The conditional approval is an agreement between the City and the property owner that the

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approved use or activity may continue as long as each party complies with the terms of the project approval. The City's obligation is to allow continued use as approved by a CUP or other discretionary approval; and the property owner's obligation is to maintain full compliance with all conditions associated with the CUP approval, and all other City regulations. The property owner's obligation to ensure lawful occupancy and use of a property cannot be subrogated to a tenant or other lessees who do not own the property. Entitlements provide ultimate benefit to the property owner and the property owner is ultimately responsible for compliance to ensure that approved entitlements remain in force.

Despite numerous meetings with City staff to discuss criminal and nuisance activities associated with the site, the property owner has failed to ensure compliance with the CUP and Standards Variance conditions, and has failed to ameliorate the public nuisance created by the ongoing operation of a series of bars on the site. The first violation on the property occurred on July 21, 2011, for entertainment without a permit. Violations were also issued on July 19, 2012, and continually over the years throughout 2014, 2015, and 2016.

Likewise, the current business operator also has a responsibility to uphold the conditions within the CUP, as well as its own operating business license. As such, the business operator is in violation of the LBMC. Despite this pattern of disregard, the property owner has failed to evict the tenant, terminate the lease or take any other action sufficient to remedy the repeated violations.

**Revocation of Business Owner Business License (Miko's Sports Lounge Bar/Tavern/Lounge)**

In December 2013, Damitresse Yancey was issued a business license to operate a bar at the Property, DBA Miko's Sports Lounge. The owner of the business voluntary agreed to additional conditions at the time of issuance that included additional signage and a requirement to keep the back door closed. This license was issued conditionally at the time for a period of six months and on June 24, 2014, the regular business license was issued.

On August 25, 2014, Miko's Sports Lounge applied for a permit for entertainment with dancing. At the time, the reviewing departments (Police, Fire, Building, and Planning) recommended approval of the entertainment application. At the City Council Hearing on March 17, 2015, the City Council denied the application for Entertainment with Dancing Permit due to the nuisance activity associated with the bar during the period of August 2014 through March 2015. This nuisance activity, as described by residents at the hearing, caused lack of sleep, safety concerns, and stress related health issues.

Since that time, the Long Beach Police Department (LBPD) has responded to hundreds of calls for service regarding the business. Though City representatives have met and spoken with the business owner as listed above, the business owner is either unwilling or unable to abate the nuisance activities caused by the business.

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On June 20, 2016, the Chief of Police requested the Department of Financial Management revoke the business license for Miko's Sports Lounge (Exhibit B – Request for Business License Revocation).

Many of the issues identified by the Department of Development Services related to the CUP are also causes of action for the revocation of the business license. These include the nuisance activities listed above, as well as approximately 250 calls for service between January 2014 and May 2016, and conducting entertainment activities without issuance of the required Entertainment Permits. The City Council denied the application for an entertainment permit in March 2015, following a hearing. The continued violations of the terms of the CUP and business license form the basis for the revocation of the Property entitlements and the right to operate a business at the Property.

**Revocation of Property Owner Business License (Mark, Ronald, and Colleen Mackey Commercial/Industrial Rental Business License)**

On October 23, 1990, Ronald L. Mackey, and Peggy C. Mackey were issued a commercial/industrial business license for the property located at 710-714 W. Willow Street. A commercial/industrial business license allows a property owner to lease or rent out the commercial space to any lawfully operating business. Since August 21, 2011, there have been numerous issues at the Property under the previous and current tenants, as listed above. The property owners have failed to mitigate the illegal and nuisance-related issues occurring at their property which form the basis for the revocation of the property owner's license.

**Revocation – Exercise of City's Police Power**

The evidence indicates that the operation of Miko's Sports Lounge has been and will continue to be a public nuisance, and is in violation of its CUP, as well as other provisions of the LBMC. The power to revoke a permit, as well as associated business licenses, is an important facet of the City's police power to maintain the public health, safety and general welfare. While this power is exercised as a last resort, making revocation proceedings rare, the facts in this case present a compelling need to exercise that power. Revocation of the permit and licenses will provide relief to the Long Beach Police Department, as police currently respond to a high number of calls preventing resources from being deployed more broadly in the community. Most importantly, this revocation action will improve public safety and provide relief to the adjacent community which has sustained real and ongoing damage through violence, noise disturbance, unruly behavior, parking and traffic disruptions and an overall degradation in their quality of life. These impacts have been an acute degradation of public health and welfare. As the designated hearing body, the Planning Commission is authorized to remedy the situation by revoking each of the permits associated with the operation of Miko's Sports Bar.

**RECOMMENDATION**

Staff recommends the Planning Commission revoke Conditional Use Permit and Standards Variance (Case No. 9505-01) for a tavern with pool tables and six parking

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spaces rather than eleven; revoke all business licenses for the operator (Enaid's Way Inc. DBA Miko's Sports Lounge, including but not limited to BU21338610, BU21338620, and BU21338630), and revoke the property owner's general commercial business license (Ronald L. Mackey and Peggy C. Mackey including but not limited to BU90057720) for the bar located at 710 W. Willow Street.

## **PUBLIC HEARING NOTICE**

Notices of Public Hearing were distributed on October 17, 2016, to adjacent property owners and residents in accordance with the provision of the Zoning Ordinance, and revocation notices to the business owner and property owner were duly served pursuant to applicable LBMC provisions. Staff has received numerous telephone inquiries regarding this revocation in recent weeks, generally from residents who are interested in making public testimony supporting the revocation at the hearing. No written communication has been received as of the date of preparation of this staff report. Any written comments received after the date of report publication will be provided to the Planning Commission prior to the scheduled hearing.

## **ENVIRONMENTAL REVIEW**

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, Categorical Exemption CE 16-247 was issued for the proposed project (Exhibit F - Categorical Exemption). Guidelines Section 15321 (Class 21) explicitly provides that enforcement actions, including the revocation of a permit, are categorically exempt from environmental review.

Respectfully submitted,

Linda F. Tatums

LINDA F.TATUM, AICP  
PLANNING BUREAU MANAGER

Amy Bodek It's you

AMY J. BODEK, AICP  
DIRECTOR OF DEVELOPMENT SERVICES

AJB:LFT:ck

Attachments:

- Exhibit A – Location Map & Site Photos
- Exhibit B – Notice of Final Action for Case 9505-01
- Exhibit C – Findings for Requested Actions
- Exhibit D – Summary Chronology of Events and Interactions
- Exhibit E – City Attorney Exhibits Folder
- Exhibit F – Categorical Exemption



191606

**EXHIBIT B****CITY OF LONG BEACH**  
DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

**NOTICE OF FINAL ACTION**(310) 570-6655  
FAX (310) 570-6753  
TDD (310) 570-6793

Case No. 9505-01

Project Location: 710 W. Willow Street

Applicant: K-B Club  
Teena Main

Applicant Address: 710 W. Willow Street  
Long Beach, CA 90806

Permit Requested: Conditional Use Permit and Standards Variance

Project Description: The expansion of an existing tavern into an adjacent lease space for a pool hall (4 pool tables) with 6 parking spaces (instead of not less than 11).

Action taken by: City Planning Commission  
June 15, 1995

Decision: Approve Conditional Use Permit and Standards Variance subject to conditions.

Action was final: June 15, 1995

For projects in the Coastal Zone, this action \_\_\_\_\_ is X is not appealable to the Coastal Commission.

*You are hereby provided notice that the time within which judicial review of the herein reported decision must be sought is governed by Section 1094.6 of the California Code of Civil Procedure.*

  
Robert Bernard  
Zoning Administrator

Harold Simkins, Senior Planner  
Project Planner Phone No. 570-6607  
Council District: 7

Attachments

This information is available in an alternative format by request to Peggy Rasnick at (310) 570-6405.

## **CONDITIONAL USE PERMIT/STANDARDS VARIANCE**

### **CONDITIONS OF APPROVAL**

**Case No. 9505-01**

**Date: June 15, 1995**

#### **GENERAL REQUIREMENTS**

1. The use permitted hereby on the site, in addition to uses permitted in the Community Automobile-Oriented (CCA) Zone, shall the expansion of an existing tavern into an adjacent lease space for a pool hall (4 pool tables) with 6 parking spaces (instead of not less than 11).
2. This permit and all rights hereunder shall terminate within one year of the effective date of the permit unless construction or the use has commenced or a written time extension is granted, based on a written request submitted prior to the expiration of the one year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
3. This approval shall be invalid if the owner(s) and applicant(s) have not returned a written acknowledgment of their acceptance of the conditions of approval on forms supplied by the Planning Department. This acknowledgement must be submitted within one month from the date of approval of the Conditional Use Permit.
4. Violation of any of the conditions of this Conditional Use Permit shall be cause for the issuance of an infraction, citation, prosecution, and/or revocation and termination of all rights thereunder by the City of Long Beach.
5. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the use and development of said property as set forth by this Conditional Use Permit together with all conditions which are a part thereof. The specific requirements must be recorded with all title conveyance documents at time of closing escrow if the same use is to be continued.
6. This approval is required to comply with these Conditions of Approval as long as this use is on this site. As such the site shall allow periodic re-inspection to verify compliance. When such inspection is carried out, the property owner or the responsible party of the property shall reimburse the city for the cost according to the special building inspection established by City Council.

7. All operational conditions of this Conditional Use Permit shall be posted in a location visible to the public, in such a manner as to be readable when the use is open for business.
8. Approval of this development project is expressly conditioned upon payment, (prior to building permit issuance, or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established city service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
9. The Director of Planning and Building is authorized to make minor modifications to the approved concept design plans or any of the conditions without benefit of an additional public hearing before the Planning Commission if such modifications shall achieve substantially the same results as would strict compliance with said plans and conditions and if no detrimental effects to neighboring properties are caused by said modifications.
10. Site development shall conform to plans approved and on file in the Department of Planning and Building.
11. The operator of the use shall prevent loitering in all parking and landscaping areas serving the use during and after hours of operation. The operator must clean the parking and landscaping areas of trash debris on a daily basis. Failure to do so shall be grounds for permit revocation. If loitering problems develop, the Director of Planning and Building may require additional preventive measures such as but not limited to, additional lighting or private security guards.
12. All parking and common areas shall be provided with appropriate security lighting with light and glare shields so as to avoid any light intrusion onto adjacent or abutting residential uses.
13. All structures shall conform to Building Code requirements. Notwithstanding this Conditional Use Permit and Standards Variance, all required permits from the Building and Safety Bureau must be secured.
14. The operator of the use shall provide security measures to the satisfaction of the Chief of Police.

15. Any graffiti found on site must be removed within 24 hours of its discovery.
16. Demolition, site preparation, and construction activities are limited to the hours between 7:30 a.m. and 6:00 p.m., except for the pouring of concrete, which may occur as needed.
17. Any off-site improvements found damaged shall be replaced to the satisfaction of the Director of Public Works.
18. All required utility easements shall be provided for to the satisfaction of the concerned department or agency.

**SPECIAL CONDITIONS**

19. The applicant/developer shall prohibit the installation of an exterior public telephone to the satisfaction of the Director of Planning and Building.
20. The applicant/developer/operator shall be required to provide for and maintain 5 additional parking spaces from adjoining property owners by shared use agreement for the use of said parking after 5:00 p.m. 7 days of the week to the satisfaction of the Director of Planning and Building. Such agreement shall be recorded in the Los Angeles County recorders office.

## PARKING SPACE AGREEMENT

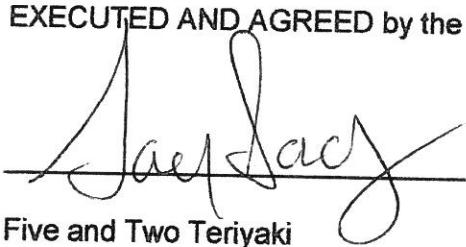
Owner of Five and Two Teriyaki, do hereby agree to let Miko's Sports Lounge, use Five and Two Teriyaki parking spaces located at 755 W Willow Street, Long Beach, CA. The spaces shall be shared commencing with the 5<sup>th</sup> day of May, 2016, and ending on the 5<sup>th</sup> day of May, 2016.

The following terms and conditions shall apply to this Parking Space Agreement

### Terms and Conditions:

- Items Left in any Vehicle:** Five and Two Teriyaki shall not be responsible for damage or loss to possessions or items left in vehicles occupied by Miko's Sports Lounge customers while in lot.
- Damage to Vehicle:** Five and Two Teriyaki shall not be responsible for damage to any Miko's Sports Lounge customer's vehicles, whether or not such damage is caused by other vehicle(s) or person(s) in the parking lot and surrounding area.
- Use of Lot:** Miko's Sports Lounge shall have use of parking lot between the hours of 9:00 PM through 2:00 AM daily.
- Maintenance:** Miko's Sports Lounge shall keep and maintain all portions of the lot clean and in an orderly condition, free of dirt and trash.
- Cooperation:** The parties agree to cooperate and work together in good faith to effectuate the purpose of this Agreement.
- Termination:** Either party may terminate this Agreement by providing (30 days written notice to the other party. Any such notice shall be directed to a party at the party's address as listed below in this Agreement.

EXECUTED AND AGREED by the parties hereto, this the 5<sup>th</sup> day of May, 2016.

  
Five and Two Teriyaki

  
Miko's Sports Lounge

755 W. Willow St  
Address Long Beach CA

710 W. Willow, LB CA  
Address

# EXHIBIT C

## FINDINGS REVOCATION OF CONDITIONAL USE PERMIT 710 W. Willow Street Application No. 9505-01 November 3, 2016

Pursuant to Section 21.21.601 of the Long Beach Municipal Code (LBMC), an approved permit, variance, or other entitlement may be revoked if it is not in compliance with the terms of the permit or any other provisions of the LBMC.

The subject request is for the revocation of a Conditional Use Permit and Standards Variance (Case No. 9505-01), for a tavern with pool tables. The subject site is a 5,500-square-foot parcel on the south side of Willow Street between Maine Avenue and Oregon Avenue in the greater Wrigley community. The site is located within the Community Commercial Automobile Oriented (CCA) zone and is developed with a 2950-square-foot bar/tavern. The tavern is among a string of one- and two-story commercial buildings that line the north and south sides of Willow Street. Behind these commercial buildings, across a public alley (25<sup>th</sup> Way), lies a residential neighborhood of predominantly single-family homes.

On June 15, 1995, the subject property was granted a Conditional Use Permit and Standards Variance by the Planning Commission. The tavern has operated under various names since 1995 including the Puka Bar, the Sandbar, and on or around December 27, 2013, began operations as "Miko's Sports Lounge." The Planning Commission has the authority and obligation to revoke the Conditional Use Permit pursuant to Long Beach Municipal Code (LBMC) 21.21.601 if it finds the property is not in compliance with the terms of the permit or any other provisions of the LBMC.

**The subject establishment is in violation of CUP Condition #14.** This condition requires that the "operator of the use shall provide security measures to the satisfaction of the Chief of Police." The Long Beach Police Department is not in concurrence with the security provided on the site. In fact over 250 calls for service have occurred at the site since January of 2014. The on-site security has failed to prevent violent occurrences at the site including a shooting, stabbing and other altercations. Additionally, the failure of security to secure the rear door and the rear parking area has resulted in noise disturbances to adjacent residences. This is evidenced by the numerous noise complaints, as well as the notice of violation from the Health Department (issued January 29, 2015, based on sound measurements on January 17, 2015).

Meetings and discussions between the LBPD and the business operator occurred on dates including but not limited to March 4 and 6, 2014, April 9, 2014, May 21, 2014, November 11, 2014, January 7, 2016. These meetings are in addition to written notices of violation sent to the business on February 24, 2014, March 26, 2014, April 24, 2014, May 16, 2014, July 2, 2014, November 12, 2014, January 29, 2015, January 7, 2016, February 20, 2016, March 18, 2016 and June 27, 2016.

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Exhibit C – Findings

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Despite these attempts by the City to bring the establishment into compliance, inadequate security was and is provided by the business. On May 9, 2016, the business submitted a “security plan” in the form of a 160-word email. On May 11, 2016, the LBPD notes that the plan remained inadequate. The key inadequacies of that plan include:

- On non-event nights the establishment uses only one security guard who monitors the front door, back parking lot, Maine Avenue, and is also working as a bar back to clear off tables and check the ice.
- On busier nights there are two guards but this security fails to actually control the rear parking lot (as opposed to the rear of the establishment’s interior). The LBPD recommends three guards on busy nights.
- On planned events one guard per 50 patrons is required. No such provision exists in the security plan.

The LBPD has found and the Department of Development Services has concurred that the security plan is inadequate. The plan is so inadequate and the ongoing issues present such a threat to public safety that LBPD Chief Robert G. Luna sent a memorandum on June 20, 2016, requesting that the business license and Conditional Use Permit be revoked. Specific evidence and testimony was presented on November 3, 2016, to corroborate the inadequacy of the security plan and substantiate the continued pernicious impact of this lack of security on the surrounding community.

**The subject establishment is in violation of CUP Condition #20.** This condition requires the “applicant/developer shall be required to provide for and maintain five additional parking spaces from adjoining property owners by shared use agreement for the use of said parking spaces after 5:00 P.M. seven days a week to the satisfaction of the Director of Development Services. Such agreement shall be recorded with the Los Angeles County Recorder’s Office.

No parking agreement was provided until May 13, 2016. That agreement is dated May 5, 2016, with “Five and Two Teriyaki” providing the parking. This agreement according to its own terms is specified to end the same day that it was issued. This document has not been recorded with the Los Angeles County Recorder as required by the condition. This arrangement is for the period of time from 9:00 P.M. to 2:00 A.M., whereas the condition requires parking beginning at 5:00 P.M. Additionally, customers of Miko’s need to be informed of this parking opportunity through signage and the parking area must be secured in terms of noise and safety. The business has not rectified any of these inadequacies and a large number of the complaints and calls for service relate to Miko’s customers parking on Maine Avenue and causing disturbances at their car and during their journey between the vehicles and Miko’s.

This condition has not been complied with from the time Miko’s began operations in December 2013 until today. The business owner and property owner were provided notice of this violation on March 18, 2016 and June 27, 2016, but have failed to bring

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the property into compliance. Continued noncompliance with this condition causes irreparable harm to the surrounding community. Night-time disturbances along Maine Avenue have resulted and will continue to result from Miko's operations with Miko's customers parking along residential streets creating noise and other disturbances.

The business owner and the property owner have collectively allowed Miko's to operate in violation of **Condition #14** and **Condition #20** of the CUP as follows:

- a. Miko's use of only one security guard on non-event nights who monitors the front door, the back parking lot, Maine Avenue and also works as a bar back to clear tables and to check the ice, is inadequate to combat the nuisance activity which occurs in the rear parking lot and along Maine Avenue.
- b. Miko's use of two security guards on busier nights does not effectively control the rear parking lot to keep noise, boisterous activity and loitering by its patrons to a minimum.
- c. Miko's has failed to abide by the recommendations made by the Long Beach Police Department ("LBDP") to use three security guards on busy nights and one security guard per 50 patrons for planned events.
- d. The high rate of calls for service, noise complaints, loitering complaints and the general nuisance associated with Miko's patrons evidences the ineffectiveness of the security plan used by Miko's.
- e. Miko's failure to secure the rear parking area of the Property has had a direct pernicious impact on adjacent residents that are subject to loud noise, profanity, indecent behavior and other disturbances during late-night hours.
- f. That the close proximity of Miko's to the residences on Maine Avenue and on Oregon Avenue necessitates safe, accessible parking that is not located in the residential neighborhood.
- g. Many of the complaints regarding Miko's stem from patrons parking on Maine Avenue, making noise while loitering in and around their vehicles, as well as altercations on their journey to and from their car after hours when most residents are sleeping.
- h. The parking plan provided by Miko's to comply with Condition #20 of the CUP has expired and was never recorded with the Los Angeles County Recorder as required.
- i. Miko's has failed to provide sufficient parking to limit the impacts of the bar's operation on the adjacent neighborhood and their current plan fails to meet the requirements of Condition #20 of the CUP.

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- j. Miko's failure to comply with Condition #14 and Condition #20 has caused detrimental impacts on the residents of Maine Avenue and other residential streets including Oregon Avenue.
- k. Miko's has failed to keep its patrons and noise under control and has failed to isolate the late-night patrons from using adjacent residential streets for parking which has directly contributed to noise and other disturbances.

**The business operation has created a public nuisance.** The operation of Miko's has, does and will interfere with the use and enjoyment of property, endangers personal health, public health, safety and is offensive to the senses. The record has demonstrated that the lack of parking and particularly the lack of control of patrons traveling to and from their vehicles has impacted the use of property on Maine Avenue and area streets. Specific instances of blocked access have been identified as well as numerous calls for service associated with loitering and offensive activities in and around vehicles belonging to Miko's patrons.

Testimony received by the Planning Commission on November 3, 2016, established that Miko's has an ongoing negative impact upon daily life along Maine Avenue and surrounding streets. Residents have resorted to leaving their home on weekends, living in fear of patrons and disturbances on the street, and fearing retribution from the establishment for complaints. Some residents have moved away from the area, unable to endure the impacts of the establishment, this tension negatively impacts neighborhood cohesion and property values.

Noise, particularly late night noise, has been shown to negatively impact personal health and in this case public health across a number of area residents. Noise levels in excess of LBMC limits have been observed and cited by the Long Beach Health Department. Additionally, noise complaints have been received by the City regarding the Miko's establishment. These complaints date from the initial months of operations to today.

The failure to control noise at the Miko's premises, the hosting of special events and use of amplified sound without proper permits or controls, has had a direct and detrimental impact on the health and wellbeing of area residents. This impact has been sustained and unabated over years of the establishment's operations.

Stabbings, shootings, loud arguments, public intoxication, lewd acts in public and other crimes have all been associated with the Miko's establishment. This pattern of behavior endangers the safety of the area and is offensive to the senses of area residents. The lack of adequate security controls and disregard for City rules and regulations demonstrates that these conditions will continue unless assertive action in the form of a revocation is taken. The Planning Commission received specific expert police testimony

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during the November 3, 2016, hearing regarding the ongoing safety threat posed by the Miko's establishment.

**The subject property is in violation of LBMC provisions.** On September 9, 2015 and May 20, 2016, the property was cited for work done without permit. The corresponding building permit and enforcement case remains unresolved. Combined with the business owners disregard for the LBMC, including two violations of hosting entertainment without a OEP, noise and food violations from the Health Department, as well as criminal activity at the subject property, it is necessary to revoke the CUP in order to bring the property into overall compliance with the LBMC.

**The business operator has been given ample opportunity to remedy the violations but has failed to bring the property into compliance.** The first recorded interaction between the establishment and the City occurred on January 20, 2014, in a meeting between Ms. Yancey, residents of the Maine Avenue Group and Celina Luna of Council District 7 staff. The first notice of violation occurred on February 24, 2014. Despite over a dozen meetings, numerous violation letters, phone and in-person visits, efforts of City staff, community engagement and communication, the business operator has failed to bring the facility into compliance. The June 27, 2016 final notice of violation explained that the City had begun the process of revoking the CUP. No response was received to that notice and no corrective action has been taken at the establishment.

**The property owner has been given ample opportunity to remedy the violations but has failed to bring the property into compliance.** The current owner purchased the property on May 10, 1990. The ownership consented to the 1995 CUP application and were aware of the findings and conditions. In 2011, the first violation occurs at the property when Shot Callers, Inc. DBA the Sandbar Lounge and operator Edgardo Sequando Lasalle Jr. are cited for having entertainment without a permit in violation of LBMC 5.72.110.

On July 19, 2012, the property owner was provided a notice of violation of Conditional Use Permit and Standards Variance. This violation included conditions #14 and #20 which remain out of compliance to date. A nuisance warning letter was sent to the owner on May 2, 2014, notification was sent from the LBPD Vice Unit on May 16, 2014, and meetings were held with the City Attorney's Office on May 21, 2014 and April 19, 2016. The Health Department notified the owner of the unacceptable noise issue on July 2, 2014, and Development Services sent a violation letter on March 18, 2016, and a final letter on June 27, 2016.

The Standards Variance and Conditional Use Permit are entitlements that run with the land. Entitlements provide ultimate benefit to, and responsibility toward, the property owner. Despite numerous meetings with City staff, it is clear based on the history of the site that the property owner has failed to comply with the permit conditions and has failed to ameliorate the public nuisance.

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The current business operator is in violation of the LBMC and as such is in violation of the lease for the premises. Despite this fact, the property owner has failed to evict the tenant, terminate the lease or take any other action sufficient to remedy the violations.

**Continued operation of the property is inconsistent with the General Plan.** The General Plan Land Use Element (p. iii and iv) lists economic development, neighborhood emphasis and functional transportation as specific goals. The operation of Miko's has resulted in neighborhood impacts and conflict, degradation of investment in the community and residents feeling the need to leave, effectively fleeing the impacts of Miko's. This is not a condition that furthers the goals of the General Plan.

The Public Safety Element establishes goals including: "#3 [provide an urban environment, which is as safe from all types of hazards as possible and #4 Continue to identify existing or proposed uses or activities that may pose safety hazards." (p. 15) The continued operation of Miko's poses a threat to public health and safety. The evidence contained within the case record as well as the testimony presented at the November 3, 2016 public hearing establish that this impact to public safety is ongoing with perilous consequences throughout the community.

The primary goal of the City's Noise Element of the General Plan is "the City desires to attain a healthier and quieter environment for all its citizens while maintain a reasonable level of economic progress and development." (p. 10) A specific goal "[t]o prevent the loss of relatively quiet areas of Long Beach by regulating potential noise sources," (p.12) is particularly relevant to this revocation. The environment on Maine Avenue and Oregon Avenue directly south of Miko's is one of peace and quiet. Traffic levels are restrained and very little noise is created by the single-family homes, nearly no noise at night. This environment has been dramatically degraded by the noise violations at Miko's. One outcome of the Noise Element is the City's Noise Ordinance. The Health Department has measured and cited Miko's for noise beyond those legal level. Miko's has been cited for failing to keep the rear door closed and thus allowing noise to project toward the residences to the south. Miko's has also been cited for hosting entertainment events without proper permits, resulting in elevated noise levels and impacts to the surrounding residences.

The noise impacts occurring at the Miko's establishment are compounded by noise from Miko's patrons who park on Maine Avenue, resulting in noise and disturbances during late-night hours when residence have an expectation of quiet. The noise element prompts the City to address situations such as these, providing a goal of "#2 [t]o regulate and control noise which is injurious to health or psychological well-being," and "#6 [t]o monitor and answer complaints in noise-related problem area[s]." (p. 16)

The revocation of Case No. 9505-01 for 710 W. Willow Street is necessary due to the violation of conditions, violations of the LBMC, to address a public nuisance and to bring the property into conformity with the City's General Plan.

## FINDINGS

### REVOCATION OF BUSINESS LICENSE OF OPERATOR

Business License No. BU21338610 for Operator Enaid's Way, Inc., DBA Miko's Sports Lounge ("Miko's"), which business is located at 710 W. Willow Street ("Property").

Pursuant to LBMC Section 2.93.050, the Long Beach City Council designated the Planning Commission as the Hearing Officer to conduct a revocation hearing for the business license of Enaid's Way, Inc. DBA Miko's Sports Lounge.

The Department of Financial Management recommends revocation of the business license (BU21338610) issued to Enaid's Way, Inc. DBA Miko's Sports Lounge operating as a Bar/Tavern/Lounge. On June 20, 2016 the Business Services Bureau received a memo from the LBPD requesting that the business license (BU2338610) be revoked due to nuisance issues, unpermitted entertainment, violations of the Conditional Use Permit conditions and calls for service.

Pursuant to LBMC Section 3.80.429.1(A), "whenever any person fails to comply with any provision of this Chapter pertaining to business license taxes or any rule or regulation adopted pursuant thereto or with any other provision or requirement of law, including, but not limited to, this Municipal Code and any grounds that would warrant the denial of initial issuance of a license hereunder, a revocation hearing shall be held to show cause why the license should not be revoked."

#### A. OPERATION OF PROPERTY AS A PUBLIC NUISANCE

The Property has been operated as a public nuisance. Sections 21.21.605, 21.52.201 & 3.80.429.1 of the LBMC provide that the City of Long Beach ("City") may require the revocation of a conditional use permit or business license when the use is being operated as a public nuisance as defined in LBMC Sections 9.37.090 (A), (G) & (H) and California Civil Code Sections 3479 and 3480.

A nuisance is broadly defined as "*anything which is injurious to health, ...or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property...*" and a public nuisance is defined as "*one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*" California Civil Code Sections 3479 and 3480, LBMC Section 9.37.090(A).

Sections 9.37.090(G) & (H) of the LBMC incorporate into the definition of nuisance the following "*The making or continuing, or causing to be made or continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area*" and "*the occurrence of criminal activity at any premises which threatens the life, health, safety or welfare of the residents of the premises, neighbors or the public.*"

## **1. FACTS IN SUPPORT OF FINDING (PUBLIC NUISANCE)**

The following conditions are found to be injurious to health, indecent or offensive to the senses, or constitute obstructions to the free use of property, so as to interfere with the comfortable enjoyment of life or property:

1. Consistent late-night and early morning noise emanating from Miko's as music is being played inside of the Property;
2. Litter and trash found on the front lawns and streets of the surrounding neighborhood, including, but not limited to, empty liquor bottles, glasses and cans;
3. Constant smoking of marijuana and drinking of alcohol by Miko's patrons while their vehicles are parked on Maine Avenue adjacent to the Property;
4. Loud music emanating from Miko's patrons' vehicles when they arrive at the bar, while their vehicles are parked along Maine Avenue, as well as when Miko's patrons leave the bar.
5. Ongoing trespassing onto the properties of the residents along Maine Avenue by patrons of Miko's.
6. Urination, defecation and vomit by patrons of Miko's on the properties of the residents along Maine Avenue;
7. Constant drunk and disorderly behavior of the Miko's patrons;
8. Threatening, aggressive and defiant behaviors of Miko's patrons towards residents of the neighborhood;
9. The inability of residents from the neighborhood adjacent to Miko's to park their vehicles along Maine Avenue;
10. Illicit sexual conduct by Miko's patrons in and around the surrounding neighborhood along Maine Avenue;
11. Acts of intimidation towards residents of the surrounding neighborhood by Miko's patrons;
12. Constant loitering by Miko's patrons in the parking area directly behind the bar and adjacent to surrounding neighborhood;
13. On December 27, 2015, an innocent Miko's patron is shot and seriously wounded on Maine Avenue, a neighborhood street adjacent to the Property, by another Miko's patron;

14. On March 30, 2016, a stabbing occurred just outside of the Property, but the stabbing victim enters Miko's after being stabbed to seek assistance. The stabbing suspect also walks into the bar, but then abruptly turns and leaves the bar quickly.

Under the totality of the circumstances identified above, there is substantial evidence that Miko's has been operated by its management in disregard for the health, safety and general welfare of the neighborhood, its residents and the people of the City of Long Beach, as well as in violation of the law.

15. The current and past operation of Miko's constitutes a public nuisance and is detrimental to the public health or safety so as to constitute a public nuisance.

**B. VIOLATION OF SPECIAL CONDITIONS OF APPROVAL FOR CUP NO.9505-01**

Conditions of approval are imposed on CUPs because an underlying use may not be compatible with surrounding uses. The imposition of conditions of approval can mitigate a potentially impactful business to an extent that different uses can be made compatible (LBMC Section 21.52.010). A bar or tavern illustrates this concept, as the noise, boisterous patron behavior, and late hours of a bar are incompatible with the quiet enjoyment of adjacent residences. However, the two uses may peacefully coexist if the noise and patrons activity at the bar can be isolated from the nearby residences.

1. The CUP for the Property has 20 conditions of approval. The City has identified the following Conditions of Approval that have been violated by the Mackeys and Miko's:

**Condition #14**—The operator of the use shall provide security measures to the satisfaction of the Chief of Police.

**Condition #20**—The applicant/developer shall be required to provide for and maintain five additional parking spaces from adjoining property owners by shared use agreement for the use of said parking after 5:00 p.m. seven days a week to the satisfaction of the Director of Development Services. Such agreement shall be recorded with the Los Angeles County Recorder's Office.

**Facts in Support of Violations**

2. Miko's is operating in violation of **Condition #14** and **Condition #20** of the CUP as follows:
  - a. Miko's use of only one security guard on non-event nights who monitors the front door, the back parking lot, Maine Avenue and also works as a bar back to clear tables and to check the ice, is inadequate to combat the nuisance activity which occurs in the rear parking lot and along Maine Avenue.

- b. Miko's use of two security guards on busier nights does not effectively control the rear parking lot to keep noise, boisterous activity and loitering by its patrons to a minimum.
- c. Miko's has failed to abide by the recommendations made by the Long Beach Police Department ("LBDP") to use three security guards on busy nights and one security guard per 50 patrons for planned events.
- d. The high rate of calls for service, noise complaints, loitering complaints and the general nuisance associated with Miko's patrons evidences the ineffectiveness of the security plan used by Miko's.
- e. Miko's failure to secure the rear parking area of the Property has had a direct pernicious impact on adjacent residents that are subject to loud noise, profanity, indecent behavior and other disturbances during late-night hours.
- f. That the close proximity of Miko's to the residences on Maine Avenue and on Oregon Avenue necessitates safe, accessible parking that is not located in the residential neighborhood.
- g. Many of the complaints regarding Miko's stem from patrons parking on Maine Avenue, making noise while loitering in and around their vehicles, as well as altercations on their journey to and from their car after hours when most residents are sleeping.
- h. The parking plan provided by Miko's to comply with Condition #20 of the CUP has expired and was never recorded with the Los Angeles County Recorder as required.
- i. Miko's has failed to provide sufficient parking to limit the impacts of the bar's operation on the adjacent neighborhood and their current plan fails to meet the requirements of Condition #20 of the CUP.
- j. Miko's failure to comply with Condition #14 and Condition #20 has caused detrimental impacts on the residents of Maine Avenue and other residential streets including Oregon Avenue.
- k. Miko's has failed to keeps its patrons and noise under control and has failed to isolate the late-night patrons from using adjacent residential streets for parking which has directly contributed to noise and other disturbances.

### **C. VIOLATION OF STANDARD CONDITIONS OF APPROVAL FOR CUP 9505-01**

Business and property owners have responsibilities beyond the specific conditions imposed in the approved CUPs. These responsibilities include operating in a manner consistent with the intent of the LBMC and with due consideration to surrounding properties. The purpose of these general conditions is to prevent public nuisance or impacts to surrounding properties and uses. LBMC Section 21.52.010 describes this purpose and LBMC Section 21.21.404 provides the Department of Development Services with the jurisdiction for monitoring continued compliance with the provisions and conditions of approved permits. This land-use authority is an extension of the City's police power, which functions to protect the public health, safety and general welfare of residents.

#### **Facts in Support Violation Of Standard Conditions of Approval**

1. Miko's has failed to abide by the standard conditions of approval as outlined in LBMC Section 21.52.010 as follows:
  - a. Miko's has not been operated in an appropriate manner despite numerous interactions with various departments within the City.
  - b. Miko's has been criminally cited for having entertainment without an appropriate permit in violation of LBMC Section 5.72.110 (A) on January 7, 2016 and again on February 20, 2016.
  - c. Miko's operation of events without an Occasional Entertainment Permit ("OEP") and without regard to surrounding residents has interfered with public health through noise and disturbance, parking intrusion and patron behavior has interfered with the normal access of public streets by residents.
  - d. Miko's has unlawfully expanded the use of the premises from a neighborhood bar/tavern as allowed for in the CUP to a dance club by providing DJ entertainment and by creating a dance floor space inside the bar by pushing the pool tables it is allowed to use up against the walls. Such use clearly exceeds the scope of use allowed for in the CUP.
  - e. The failure of Miko's to provide consistent and appropriate site security and control its patrons has resulted in a stabbing, an attempted suicide and at least one shooting.
  - f. There have been 250 calls for police service to the Property between January 2014 and May 2016, which provides a clear record of negative impacts from Miko's.

g. The continued disregard to City and community concerns and the continued lack of responsibility exhibited by Miko's, leaves the City with no other option than to pursue revocation of the CUP for the Property.

**D. REVOCATION OF BUSINESS LICENSE NO. BU21338610 FOR MIKO'S SPORTS LOUNGE**

**1. Findings of Fact In Support Of Revocation of Business License**

- a. In December 2013, Damitresse Yancey ("Ms. Yancey") was issued a business license to operate a bar at the Property, DBA Miko's Sports Lounge.
- b. Ms. Yancey voluntarily agreed to additional conditions at the time of the issuance that included additional "no loitering" signage on the Property and a requirement to keep the back door closed at all times except for emergencies and for deliveries.
- c. Ms. Yancey met with residents living on Maine Avenue twice during the first month that Miko's was opened in January-February of 2014, but has neither met with nor attempted to reach out to residents living on Maine Avenue for well over two years.
- d. The license was issued conditionally for a period of 6 months and on June 24, 2014, the regular business license was issued.
- e. Since June 24, 2014, Miko's has continually violated the back door condition, has failed to prevent its patrons from loitering in the rear parking area as well as on Maine Avenue, which has resulted in the LBPD having to respond to hundreds of calls for service regarding Miko's.
- f. Despite City representatives having met with and spoken to Ms. Yancey about the nuisance activity emanating from Miko's, Ms. Yancey is either unwilling or unable to abate the nuisance activities as evidenced by her willful refusal to reach out to the residents living in the neighborhood adjacent to the Property along Maine Avenue.
- g. Despite the number of calls for police service, Ms. Yancey has continued to apply for OEPs and has attempted to transform Miko's from a bar to a nightclub.

- h. Instead of trying to limit the number of people coming to Miko's to reduce the number calls for police service in order alleviate the complaints from the surrounding neighborhood, Ms. Yancey proceeded to advertise events at Miko's on the internet and through social media in a conscious attempt to actually increase the number of patrons visiting the bar.
  - i. Despite suggestions made to Ms. Yancey by LBPD to have three security guards working at Miko's on event days or on days that are busy, Ms. Yancey has refused to abide by the suggestions to add more security.
- j. On December 27, 2015, an argument between two patrons inside of Miko's results in the shooting of an innocent victim outside on the street along Maine Avenue.
- k. On January 7, 2016, Ms. Yancey and Miko's are cited for a misdemeanor violation of LBMC Section 5.72.110(A) for having entertainment without a permit.
- l. On February 20, 2016, Ms. Yancey and Miko's are cited a second time for a misdemeanor violation of LBMC Section 5.72.110(A) for having entertainment without a permit.
- m. On June 20, 2016, the Chief of Police requested the Department of Financial Management revoke the business license for Miko's.
- n. Many of the issues identified above in relation to the revocation of the CUP, also provide a basis for the revocation of the business license issued to Ms. Yancey and Enaid's Way, Inc.
- o. These include the nuisance related activities listed above as well as the 250 calls for service between January 2014 and May 2016. Conducting entertainment activities without issuance of the required Entertainment Permit.
- p. The Long Beach City Council denied Ms. Yancey's application for an entertainment permit on March 7, 2015.
- q. The continued violations of the terms of the CUP and business license form the basis for the revocation of the Property entitlements and the right to operate a business at the Property by Ms. Yancey.

The Secretary of the Planning Commission shall attest to the adoption of these findings and shall forward a copy to the applicant, and any person requesting the same.

BE IT RESOLVED, therefore, that based on the evidence in the record and findings contained herein, the Planning Commission hereby revokes Business License No. BU21338610 with respect to operator Enaid's Way, Inc. DBA Miko's Sports Lounge.

REVOCATION OF BUSINESS LICENSE NO. BU21338610 PASSED AND APPROVED at the Planning Commission meeting of November 3, 2016, by the following vote:

**PASSED AND ADOPTED this 3<sup>rd</sup> day of November, 2016**

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Donita Van Horik, Chair

Long Beach Planning Commission

## FINDINGS

### REVOCATION OF BUSINESS LICENSE OF PROPERTY OWNER

Business License No. BU90057720 for Mark, Ronald & Colleen Mackey ("Licensees") for a tavern located at 710-714 W. Willow Street ("Property") for Miko's Sports Lounge ("Miko's"), which business is located at the Property. The registered owner of the Property is the Ronald L. and Peggy C. Mackey Trust ("Mackeys").

Pursuant to LBMC Section 2.93.050, the Long Beach City Council designated the Planning Commission as the Hearing Officer to conduct a revocation hearing for the business license of Mark, Ronald & Colleen Mackey (BU90057720).

The Department of Financial Management recommends the revocation of the commercial/industrial business license issued to Mark, Ronald & Colleen Mackey (BU90057720), for the Property. The Licensees have failed to mitigate the illegal and nuisance-related issues occurring at the Property since July 21, 2011. Issues have continually occurred at the Property with the previous two tenants and the current tenant, Miko's Sports Lounge.

Pursuant to LBMC Section 3.80.429.1(A), "whenever any person fails to comply with any provision of this Chapter pertaining to business license taxes or any rule or regulation adopted pursuant thereto or with any other provision or requirement of law, including, but not limited to, this Municipal Code and any grounds that would warrant the denial of initial issuance of a license hereunder, a revocation hearing shall be held to show cause why the license should not be revoked."

#### A. OPERATION OF PROPERTY AS A PUBLIC NUISANCE

The Property has been operated as a public nuisance. Sections 21.21.605, 21.52.201 & 3.80.429.1 of the LBMC provide that the City of Long Beach ("City") may require the revocation of a conditional use permit or business license when the use is being operated as a public nuisance as defined in LBMC Sections 9.37.090 (A), (G) & (H) and California Civil Code Sections 3479 and 3480.

A nuisance is broadly defined as "*anything which is injurious to health, ...or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property...*" and a public nuisance is defined as "*one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*" California Civil Code Sections 3479 and 3480, LBMC Section 9.37.090(A).

Sections 9.37.090(G) & (H) of the LBMC incorporate into the definition of nuisance the following "*The making or continuing, or causing to be made or continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area*" and "*the occurrence of criminal activity at any*

*premises which threatens the life, health, safety or welfare of the residents of the premises, neighbors or the public."*

### **1. FACTS IN SUPPORT OF FINDING (PUBLIC NUISANCE)**

The following conditions are found to be injurious to health, indecent or offensive to the senses, or constitute obstructions to the free use of property, so as to interfere with the comfortable enjoyment of life or property:

1. Consistent late-night and early morning noise emanating from Miko's as music is being played inside of the Property;
2. Litter and trash found on the front lawns and streets of the surrounding neighborhood, including, but not limited to, empty liquor bottles, glasses and cans;
3. Constant smoking of marijuana and drinking of alcohol by Miko's patrons while their vehicles are parked on Maine Avenue adjacent to the Property;
4. Loud music emanating from Miko's patrons' vehicles when they arrive at the bar, while their vehicles are parked along Maine Avenue, as well as when Miko's patrons leave the bar.
5. Ongoing trespassing onto the properties of the residents along Maine Avenue by patrons of Miko's.
6. Urination, defecation and vomit by patrons of Miko's on the properties of the residents along Maine Avenue;
7. Constant drunk and disorderly behavior of the Miko's patrons;
8. Threatening, aggressive and defiant behaviors of Miko's patrons towards residents of the neighborhood;
9. The inability of residents from the neighborhood adjacent to Miko's to park their vehicles along Maine Avenue;
10. Illicit sexual conduct by Miko's patrons in and around the surrounding neighborhood along Maine Avenue;
11. Acts of intimidation towards residents of the surrounding neighborhood by Miko's patrons;
12. Constant loitering by Miko's patrons in the parking area directly behind the bar and adjacent to surrounding neighborhood;

13. On December 27, 2015, a Miko's patron is shot and seriously wounded on Maine Avenue, a neighborhood street adjacent to the Property, by another Miko's patron;
14. On March 30, 2016 a stabbing occurred just outside of the Property, but the stabbing victim enters Miko's after being stabbed to seek assistance. The stabbing suspect also walks into the bar, but then abruptly turns and leaves the bar quickly.

Under the totality of the circumstances identified above, there is substantial evidence that Miko's has been operated by its management in disregard for the health, safety and general welfare of the neighborhood, its residents and the people of the City of Long Beach, as well as in violation of the law.

15. The current and past operation of Miko's constitutes a public nuisance and is detrimental to the public health or safety so as to constitute a public nuisance.

**B. VIOLETION OF SPECIAL CONDITIONS OF APPROVAL FOR CUP NO.9505-01**

Conditions of approval are imposed on CUPs because an underlying use may not be compatible with surrounding uses. The imposition of conditions of approval can mitigate a potentially impactful business to an extent that different uses can be made compatible (LBMC Section 21.52.010). A bar or tavern illustrates this concept, as the noise, boisterous patron behavior, and late hours of a bar are incompatible with the quiet enjoyment of adjacent residences. However, the two uses may peacefully coexist if the noise and patrons activity at the bar can be isolated from the nearby residences.

1. The CUP for the Property has 20 conditions of approval. The City has identified the following Conditions of Approval that have been violated by the Mackeys and Miko's:

**Condition #14**—The operator of the use shall provide security measures to the satisfaction of the Chief of Police.

**Condition #20**—The applicant/developer shall be required to provide for and maintain five additional parking spaces from adjoining property owners by shared use agreement for the use of said parking after 5:00 p.m. seven days a week to the satisfaction of the Director of Development Services. Such agreement shall be recorded with the Los Angeles County Recorder's Office.

**Facts in Support of Violations**

2. Miko's is operating in violation of **Condition #14** and **Condition #20** of the CUP as follows:
  - a. Miko's use of only one security guard on non-event nights who monitors the front door, the back parking lot, Maine Avenue and also

works as a bar back to clear tables and to check the ice, is inadequate to combat the nuisance activity which occurs in the rear parking lot and along Maine Avenue.

- b. Miko's use of two security guards on busier nights does not effectively control the rear parking lot to keep noise, boisterous activity and loitering by its patrons to a minimum.
- c. Miko's has failed to abide by the recommendations made by the Long Beach Police Department ("LBPD") to use three security guards on busy nights and one security guard per 50 patrons for planned events.
- d. The high rate of calls for service, noise complaints, loitering complaints and the general nuisance associated with Miko's patrons evidences the ineffectiveness of the security plan used by Miko's.
- e. Miko's failure to secure the rear parking area of the Property has had a direct pernicious impact on adjacent residents that are subject to loud noise, profanity, indecent behavior and other disturbances during late-night hours.
- f. That the close proximity of Miko's to the residences on Maine Avenue and on Oregon Avenue necessitates safe, accessible parking that is not located in the residential neighborhood.
- g. Many of the complaints regarding Miko's stem from patrons parking on Maine Avenue, making noise while loitering in and around their vehicles, as well as altercations on their journey to and from their car after hours when most residents are sleeping.
- h. The parking plan provided by Miko's to comply with Condition #20 of the CUP has expired and was never recorded with the Los Angeles County Recorder as required.
- i. Miko's has failed to provide sufficient parking to limit the impacts of the bar's operation on the adjacent neighborhood and their current plan fails to meet the requirements of Condition #20 of the CUP.
- j. Miko's failure to comply with Condition #14 and Condition #20 has caused detrimental impacts on the residents of Maine Avenue and other residential streets including Oregon Avenue.
- k. Miko's has failed to keeps its patrons and noise under control and has failed to isolate the late-night patrons from using adjacent residential streets for parking which has directly contributed to noise and other disturbances.

### **C. VIOLATION OF STANDARD CONDITIONS OF APPROVAL FOR CUP 9505-01**

Business and property owners have responsibilities beyond the specific conditions imposed in the approved CUPs. These responsibilities include operating in a manner consistent with the intent of the LBMC and with due consideration to surrounding properties. The purpose of these general conditions is to prevent public nuisance or impacts to surrounding properties and uses. LBMC Section 21.52.010 describes this purpose and LBMC Section 21.21.404 provides the Department of Development Services with the jurisdiction for monitoring continued compliance with the provisions and conditions of approved permits. This land-use authority is an extension of the City's police power, which functions to protect the public health, safety and general welfare of residents.

#### **Facts in Support Violation Of Standard Conditions of Approval**

1. The Mackeys and Miko's have failed to abide by the standard conditions of approval as outlined in LBMC Section 21.52.010 as follows:
  - a. Miko's has not been operated in an appropriate manner despite numerous interactions with various departments within the City.
  - b. Despite numerous interactions with the City, The Mackeys have not made a good faith effort to address the inappropriate manner in which its tenant Miko's is operating its business and has unlawfully shifted their obligation to abate the activity onto its tenant Miko's.
  - c. Miko's has been criminally cited for having entertainment without an appropriate permit in violation of LBMC Section 5.72.110 (A) on January 7, 2016 and again on February 20, 2016.
  - d. Miko's operation of events without an Occasional Entertainment Permit ("OEP") and without regard to surrounding residents has interfered with public health through noise and disturbance, parking intrusion and patron behavior has interfered with the normal access of public streets by residents.
  - e. Miko's has unlawfully expanded the use of the premises from a neighborhood bar/tavern as allowed for in the CUP to a dance club by providing DJ entertainment and by creating a dance floor space inside the bar by pushing the pool tables it is allowed to use up against the walls. Such use clearly exceeds the scope of use allowed for in the CUP.
  - f. The failure of Miko's to provide consistent and appropriate site security and control its patrons has resulted in a stabbing, an attempted suicide and at least one shooting.

- g. There have been 250 calls for police service to the Property between January 2014 and May 2016, which provides a clear record of negative impacts from Miko's.
- h. The continued disregard to City and community concerns and the continued lack of responsibility exhibited by both Miko's and the Mackeys leaves the City with no other option than to pursue revocation of the CUP for the Property.

**D. REVOCATION OF BUSINESS LICENSE NO. BU21338610 FOR RONALD L. MACKEY AND PEGGY C. MACKEY**

**Findings of Fact**

1. On October 23, 1990, the Licensees were issued a commercial/industrial business license for the property located at 710-714 W. Willow Street.
2. A commercial/industrial business license allows a property owner to lease or rent out the commercial space to any lawfully operating business.
3. Since July 21, 2011, there have been numerous issues at the Property under previous tenants, the Puka Bar and the Sandbar Lounge, as well as the current tenant, Miko's.
4. On July 21, 2011, the Licensees' tenant at the Property, the Sandbar Lounge, was criminally cited for violating LBMC Section 5.72.110(A) for having entertainment without a permit.
5. On July 19, 2012, the Mackeys and the Sandbar received a Notice of Violation of the CUP from the City's Planning Department. The same issues arose as to Condition #14 and Condition #20, relating to the security and parking requirements, respectively.
6. In December 2013, Damitresse Yancey ("Ms. Yancey") was issued a business license to operate a bar at the Property, DBA Miko's Sports Lounge, the Licensees current tenant at the Property.
7. The Mackeys and Licensees have failed to mitigate the illegal and nuisance related issues occurring at the property since at least July 21, 2011.
8. Miko's business owner Ms. Yancey voluntarily agreed to additional conditions at the time of the issuance of the business license that included additional "no loitering" signage on the Property and a requirement to keep the back door closed at all times except for emergencies and for deliveries.

9. Ms. Yancey met with residents living on Maine Avenue twice during the first month that Miko's was opened in January-February of 2014, but has neither met with nor attempted to reach out to residents living on Maine Avenue for well over two years.
10. The license was issued conditionally for a period of 6 months and on June 24, 2014, the regular business license was issued.
11. Since June 24, 2014, Miko's has continually violated the back door condition, has failed to prevent its patrons from loitering in the rear parking area as well as on Maine Avenue, which has resulted in the LBPD having to respond to hundreds of calls for service regarding Miko's conduct.
12. Despite City representatives having met with and spoken to Ms. Yancey about the nuisance activity emanating from Miko's, Ms. Yancey is either unwilling or unable to abate the nuisance activities as evidenced by her willful refusal to reach out to the residents living in the neighborhood adjacent to the Property along Maine Avenue.
13. Despite the number of calls for police service, Ms. Yancey has continued to apply for OEPs and has attempted to transform Miko's from a bar to a nightclub.
14. Instead of trying to limit the number of people coming to Miko's to reduce the number calls for police service in order alleviate the complaints from the surrounding neighborhood, Ms. Yancey proceeded to advertise events at Miko's on the internet and through social media in a conscious attempt to actually increase the number of patrons visiting the bar.
15. Despite suggestions made to Ms. Yancey by LBPD to have three security guards working at Miko's on event days or on days that are busy, Ms. Yancey has refused to abide by the suggestions to add more security.
16. On May 2, 2014, Licensees were notified of the nuisance related activity occurring at the property in a letter from the City's Code Enforcement Office.
17. Despite a number of meetings with City representatives concerning the nuisance related issues involving their tenant Miko's, Licensees have failed to comply with their duty to take affirmative actions to abate the nuisance activity that is emanating from the Property as a direct result of Miko's conduct.

18. The Mackeys and Licensees continued inaction in the face of the ongoing nuisance activity, which is occurring at the Property by Miko's, is a primary basis for the revocation of its commercial/industrial business license.
19. It is improper and unlawful for the Mackeys and the Licensees to simply rely on its tenant, Miko's, to abate the nuisance activity, especially when the nuisance activities have continued for well over two years.
20. On December 27, 2015, an argument between two patrons inside of Miko's results in the shooting of an innocent victim outside on the street along Maine Avenue.
21. On January 7, 2016, Ms. Yancey and Miko's are cited for a misdemeanor violation of LBMC Section 5.72.110(A) for having entertainment without a permit.
22. On February 20, 2016, Ms. Yancey and Miko's are cited a second time for a misdemeanor violation of LBMC Section 5.72.110(A) for having entertainment without a permit.
23. On June 20, 2016, the Chief of Police requested the Department of Financial Management revoke the business license for Miko's.
24. Many of the issues identified above in relation to the revocation of the CUP, also provide a basis for the revocation of the business license issued to Licensees.
25. These include the nuisance related activities listed above as well as the 250 calls for service between January 2014 and May 2016.
26. Conducting entertainment activities without issuance of the required Entertainment Permit.
27. The Long Beach City Council denied Ms. Yancey's application for an entertainment permit on March 7, 2015.
28. The continued violations of the terms of the CUP and business license form the basis for the revocation of the Property entitlements and the right to lease out the commercial space to any business.

The Secretary of the Planning Commission shall attest to the adoption of these findings and shall forward a copy to the applicant, and any person requesting the same.

BE IT RESOLVED, therefore, that based on the evidence in the record and findings contained herein, the Planning Commission hereby revokes Business License No. BU90057720 with respect to Mark, Ronald & Colleen Mackey.

REVOCATION OF BUSINESS LICENSE NO. BU90057720 PASSED AND APPROVED at the Planning Commission meeting of November 3, 2016, by the following vote:

**PASSED AND ADOPTED this 3<sup>rd</sup> day of November, 2016**

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Donita Van Horik, Chair

Long Beach Planning Commission

## Timeline of Events (Miko's Sports Lounge)

### December 9, 2013

Damitresse Yancey, Enaid's Way, Inc. dba Miko's Sports Lounge submits business license application to City. Application lists **December 27, 2013** as the start date for the bar. Application Form contains language at the bottom that states: "**THIS IS NOT A BUSINESS LICENSE: DO NOT OPERATE UNTIL A VALID LICENSE HAS BEEN ISSUED.**"

### January 20, 2014

Meeting between Maine Avenue Group (neighborhood residents), Chief of Staff for City's 7<sup>th</sup> Council District and Ms. Yancey, to welcome Miko's Sports Lounge to the neighborhood and to inform Ms. Yancey of the prior problems with that location from the previous two bars that operated there, the Puka Bar and the Sandbar Lounge.

### January 24, 2014

First police call for service (911 call) occurs at 710 W. Willow Street where Miko's Sports Lounge is now doing business.

### January 26, 2014

Tonette Kadrmas (Maine Avenue Resident) leaves a voicemail message for Ms. Yancey in order to arrange a time to meet to discuss police calls for service. No response received.

### January 29, 2014

Ms. Kadrmas leaves another voicemail message with Ms. Yancey. No response received.

### February 2, 2014

Miko's Sports Lounge has a Super Bowl BBQ Event in the parking lot next to 2569 Maine Avenue (residence). Bar patrons' parked cars block access to garage of residence. Business owner did not obtain a permit from City for this event. Business owner also did not have a valid business license at the time of this event.

### February 3, 2014

Steven Kirkpatrick (Maine Avenue Resident) and Ms. Kadrmas visit Miko's Sports Lounge during the speak with Ms. Yancey about the recent disturbances in the neighborhood and to set up a meeting. Ms. Yancey is not present, but bartender informs them that he would give her the message about the desire to meet with her. Attempts to contact Ms. Yancey's cellphone are unsuccessful.

**February 4, 2014**

Ms. Yancey leaves a message on Mr. Kirkpatrick's cellphone, but Mr. Kirkpatrick's attempts to contact Ms. Yancey are unsuccessful.

**February 17, 2014**

Ms. Yancey contacts Ms. Kadrmas to agree to a meeting on Feb. 20, 2014 at 7:00 p.m. at Miko's.

**February 20, 2014**

Tonette Kadrmas, Steve Kirkpatrick & Ricky Oropeza (residents) meet with Ms. Yancey at Miko's Sports Lounge. Residents inform Ms. Yancey of their concerns about the activities surrounding her bar, namely, "*extremely loud music, primarily the heavy bass vibration emanating from the bar, and extremely noisy customers late at night.*" Residents ask Ms. Yancey *if the back door can remain closed late at night because loud music permeates through the neighborhood when the it is open.* Residents also ask *if she could arrange for security guards to handle the noisy patrons who stay in the parking lot behind the bar and adjacent to the residence on the other side of the alley.*

Ms. Yancey informs residents that she has "*already bent over backwards*" for them by hiring security guards for Friday & Saturday nights. Residents point out that the security guards weren't effective and that the residents also have a right to the peaceful enjoyment of their neighborhood. Ms. Yancey informs them "*she cannot be at Miko's to monitor it twenty-four-(24) hours a day and that they should not have moved next door to a bar if it bothered them so much.*" Ms. Yancey informs residents that if their peace is disturbed, "*they should call the police.*"

**February 21, 2014**

Nuisance referral sent to City's Nuisance Abatement Officer by City's 7<sup>th</sup> Council District.

**February 24, 2014**

City's Business License Department issues a *Notice of Violation* to Enaid's Way, Inc. dba Miko's Sports Lounge (Ms. Yancey) for operating without a valid business license in violation of Long Beach Municipal Code ("LBMC") Chapter 3.80.210. Ms. Yancey complains to City's License Inspector that this "*was all the residents of the neighborhood's fault and they just want to see her go out of business.*"

**March 4, 2014**

Long Beach Police Department ("LBPD") Vice Unit contacts Ms. Yancey by telephone regarding the police calls for service and the requirements for obtaining an entertainment permit.

March 6, 2014

LBPD, City's Nuisance Abatement Officer, City's Business License Inspector meet with Ms. Yancey at West Division Station. Business License informs Ms. Yancey of the possibility of obtaining a *provisional business license*. LBPD suggests that Ms. Yancey should: (1) *Put up a camera on the perimeter of the bar and allow LBPD to have access to it; (2) Put up No Loitering Signs; (3) Lighting; (4) Keep Doors in the rear of bar closed; (5) Security.* Ms. Yancey agrees to put up no loitering signs and to keep the doors in the rear of bar closed.

March 25, 2014

Nuisance Abatement Officer attends neighborhood association meeting of Maine Avenue Group.. Residents are very concerned about nuisance activity coming from the bar.

March 26, 2014

**Nuisance Warning Letter** sent to business owner of Miko's Sports Lounge (Ms. Yancey).

**Conditional Business License (Max. 180 days-exp. 6-24-2014)** is issued to Enaid's Way, Inc. dba Miko's Sports Lounge by Business License Department for Bar/Juke Box(1)/Pool Tables (2), with the following conditions: *Must adhere to all Federal, State and Local Laws; 1.) Must have at least two No Loitering Signs posted at all times; 2.) Must keep rear doors closed except in the case of an emergency or to allow for a delivery; 3.) The establishment shall remain in compliance with all applicable sections of the Long Beach Noise Ordinance (LBMC Chapter 8.80).* Ms. Yancey signs the Conditional Business License on **March 28, 2014**.

April 9, 2014

Ms. Yancey meets with LBPD Vice Unit to discuss the nuisance related activities surrounding Miko's. Ms. Yancey is informed of the significant amount of police calls for service attributable to the business which consisted of complaints of loud music, loud groups, and public intoxication. *Detectives suggest that the doors to the bar, especially the rear doors, be kept closed while music is playing in the bar, that the volume level of the jukebox be kept down, and that security be stationed in the rear parking lot and on Maine Avenue as a way to mitigate the complaints.* Vice Unit finds that the calls for service are consistently occurring on Friday and Saturday evenings between the hours of 9:30 PM and 2:30 a.m. Vice reminds Ms. Yancey that, as a business owner, it is her responsibility to make an effort to mitigate any nuisance related complaints.

April 24, 2014

A second Notice of Violation is issued to Miko's Sports lounge for failing to keep the rear door of the bar closed at all times, in violation of one of the conditions of its provisional business license pursuant to LBMC 5.08.030. The notice specifically states that propping the back door is a violation of the conditions of its provisional business license.

**May 2, 2014**

Nuisance Warning Letter finally sent to the right address with the name of the correct property owner, Ronald & Peggy Mackey.

**May 5, 2014**

Property Owner (Mr. Mackey) contacts City's Nuisance Abatement Officer to acknowledge receipt of Nuisance Warning Letter.

**May 16, 2014**

LBPD Vice Unit mails letter to the owner of Miko's Sports Lounge (Ms. Yancey) outlining the meeting on 4-9-14 and *explaining Ms. Yancey's role as a business owner regarding nuisance activity.*

**May 20, 2014**

City's Nuisance Abatement Officer meets with Maine Avenue Group to go over the police calls for service as a result of nuisance activity emanating from Miko's Sports Lounge.

**May 21, 2014**

Meeting between the owners of the building (Sean & Ron Mackey), Nuisance Abatement Officer, City Attorney's Office and LBPD at both the bar location and then at the West Division headquarters. Discussion of nuisance activity and police calls for service. The Mackeys seemed to be receptive to the problems that were occurring at the location, but were reluctant to take affirmative steps themselves to abate the nuisance activity and were content with letting their tenant, Ms. Yancey, abate the nuisance activity.

**June 5, 2014**

Letter from property powers (Mackeys) to Ms. Yancey detailing the meetings the property owners have had with both City representatives and LBPD, that the nuisance activity continues and that she might be subject to damages & remedies, alludes to suggested changes to business made by LBPD. Ms. Yancey is asked to take action with regard to stopping the nuisance activity from happening at the location, otherwise she could be found to be in breach of her lease agreement with property owners.

**June 10, 2014**

City's Nuisance Abatement Officer contacts Mr. Mackey and asks for a Plan of Action in order to abate the nuisance activity coming from Miko's Sports Lounge.

**June 17, 2014**

City's Nuisance Abatement Officer receives a copy of letter dated June 5, 2014 from Ron and Sean Mackey to Ms. Yancey regarding the ongoing nuisance complaints and her need to take care of them.

**June 24, 2014**

Permanent Business License issued to Enaid's Way, Inc. after expiration of Conditional Business License period of 180 days from December 27, 2013 up to and through June 24, 2014. Pursuant to the Business License notes in their computer system, "*During the conditional license period Business License did not receive a recommendation from PD or Peter Ronca in Nuisance Abatement to deny the license. Business License also monitored the business to ensure compliance and did not find any violations that would cause a denial.*" Issued License by Brett J. Yakus.

**June 25, 2014**

Health Department responds to complaint from City Council's office that cooking and food preparation was occurring at the bar when it was never approved for food preparation and/or cooking. **Notice of Violations** prepared and served on Miko's Sports Lounge after an inspection of the premises by Health Inspectors found violations.

**July 2, 2014**

Health Department's Nelson Kerr, sends a letter to Enaid's Way Inc.(business owner), & Ron Mackey(property owner) informing them that a noise complaint had been filed with their Noise Control Officer concerning loud amplified sound at 710 W. Willow Street. ***Request for their cooperation in eliminating any unnecessary or unreasonable noise at their location.***

**July 14, 2014**

Tonette Kadrmas (Maine Avenue Resident) sends City Nuisance Abatement Officer an email complaining about "***People having oral sex in front of her neighbor's home.***"

**October 15, 2014**

LBPD Vice Unit takes over the lead on investigating complaints regarding Miko's Sports Lounge because Damitresse Yancey submitted an application for an Entertainment Permit with the City's Business License Department. Vice Unit will be monitoring the police calls for service from this point forward.

**November 11, 2014**

LBPD Vice Unit has meeting with Ms. Yancey at Miko's Sports Lounge to discuss the entertainment permit application and the potential conditions PD would recommend.

**November 12, 2014**

***Office Hearing*** conducted at the Bureau of Environmental Health, 2525 Grand Avenue, Rm. 220, Long Beach, California 90815, with Ms. Yancey and Pat Scott appearing on behalf of Miko's Sports Lounge and Keith Allen, Leila Judd and Vanno Kho appearing on behalf of the Health Department. ***Violations listed:*** #1. ***Failure to properly obtain food from an approved source. (California Retail Food Code, Ch. 4, Article 3, Section 114021);*** #2. ***Failure to operate within the scope of the Health Permit that facility was approved for. (Cal. Code, Ch. 13, Article 1, Section 114381).*** Conditions placed on Miko's Sports Lounge for any food that is catered for the bar.

**November 13, 2014**

Meeting with City's Business License Department, the City's 7<sup>th</sup> Council District and Ms. Yancey to discuss her entertainment permit application.

**November 30, 2014**

Maine Avenue Group, a total of sixteen-(16) residents, file a complaint with the Alcohol Beverage Control Board .

**January 29, 2015**

**First Notice of Violation**-regarding noise from Miko's Sports Lounge, based on sound readings obtained on January 17, 2015 by the City's Health Department.

**March 17, 2015**

City Council denies Miko's Sports Lounge's ***Application for Entertainment w/ Dancing Permit*** for 710 W. Willow Street.

**March 23, 2015**

LBPD Vice Unit advises City's Nuisance Abatement Officer to close its nuisance file after City Council's denial of Miko's Entertainment w/ Dancing permit since a majority of the nuisance complaints resulted from events taking place at Miko's Sports Lounge.

**April 2015**

Maine Avenue Group (residents) files a formal complaint with City's Planning Department as a result of Miko Sports Lounge's non-compliance with the existing conditions of the CUP.

**May 2015**

Maine Avenue Group (residents) buys camera and video equipment to document the ongoing nuisance activities. The equipment is installed at 2569 Maine Avenue, just south of the bar across the alley.

**September 2015**

Miko's Sports Lounge receives a "**Building without a permit violation-Cease and Desist Order**", from the City .

**December 27, 2015**

An argument which begins inside of Miko's Sports Lounge, results in the shooting of an innocent victim outside on the street along Maine Avenue across from Willow Street. (**LBPD Report DR#15-79353**)

**January 7, 2016**

Ms. Yancey gets cited by an undercover officer for having entertainment without a permit at Miko's Sports Lounge in violation of LBMC 5.72.110(A). (**LBPD Report DR# 16-4642**)

**January 22, 2016**

Memorandum from Chief of the LBPD to City Manager requesting that all current and future Occasional Entertainment Permits submitted by Miko's Sports Lounge be denied for the next sixty-(60) days.

**February 20, 2016**

Ms. Yancey gets cited a **second time** by an undercover officer for having entertainment without a permit at Miko's Sports Lounge in violation of LBMC 5.72.110(A). (**LBPD Report DR#16-11303**)

**March 18, 2016**

Letter sent to Enaid's Way, Inc. dba Miko's Sports Lounge and the Ronald L. and Peggy C. Mackey Trust by City's Planning Officer Christopher Koontz regarding the property being in violation of the Conditions of Approval for the Conditional Use Permit, namely Condition #14 (security) and Condition #20 (parking).

**March 27, 2016**

Attempted suicide call regarding a male individual who was drinking at the bar with his girlfriend when they got into an argument and broke up. Male individual is distraught and cuts his arm with a broken beer bottle. Male is later located somewhere outside and away from the bar. (**LBPD Report DR#16-19587**)

**March 30, 2016**

Stabbing occurs just outside of Miko's bar, but the victim enters Miko's after being stabbed and seeks assistance. Suspect then walks into the bar and then turns and leaves very quickly. (**LBPD Report DR#16-20486**)

**April 19, 2016**

Meeting at City Hall with City Attorney's Office, Planning Department, LBPD, residents Steven Kirkpatrick and Tonette Kadrmas and property owners Ronald & Peggy Mackey to discuss the nuisance activity and potential revocations of business license and CUP.

**April 20, 2016**

Memorandum from Chief of LBPD to City Manager requesting that Miko's Sports Lounge's Applications for Occasional Event Permits be denied for April 28-30 and May 19-21.

**May 9, 2016**

Ms. Yancey contacts LBPD Vice Unit's Laurie Barajas with copy of the security guard cards and description of her security plan for Miko's Sports Lounge.

**May 20, 2016**

Miko's Sports Lounge receives a second "***Notice of Violation Building without a Permit***" from City's Building Inspector.

**June 1, 2016**

Ms. Yancey contacts LBPD Vice Unit to confirm their receipt of a copy of her security plan and guard cards.

**June 20, 2016**

Memorandum from LBPD Chief to City's Business License Department regarding the requested revocation of the business license of Enaid's Way, Inc. dba Miko's Sports Lounge and Damitresse Yancey.

**June 27, 2016**

Letter from Director of Development Services to Miko's Sports Lounge and the Ronald L. and Peggy C. Mackey Trust, regarding the ongoing violations of the Conditional Use Permit and Standards Variance, as well as City's Intention to seek a revocation of the Conditional Use Permit and Standards Variance during a hearing before the Planning Commission.

**August 9, 2016**

City Council approves request that a revocation hearing be scheduled before the Planning Commission for the revocation of the business license issued to Enaid's Way, Inc. DBA Miko's Sports Lounge, as well as the Commercial Industrial Business License issued to Ronald Mackey for 710 W. Willow Street as well as the Conditional Use Permit and Standards Variance which was issued on June 15, 1995, and runs with the land located at 710 W. Willow Street.

## Timeline of Events for 710-714 W. Willow Street

### (Ron Mackey, Sean Mackey, Peggy Mackey)

#### May 10, 1990

Purchase of 714 W. Willow Street by Ronald, Peggy & Sean Mackey.

#### June 15, 1995

Conditional Use Permit and Standards Variance issued to K-B Club & Teena Main for “*The expansion of an existing tavern into an adjacent lease space for a pool hall (4 pool tables) with 6 parking spaces (instead of not less than 11)*”, by City’s Planning Commission.

#### January 1, 2007

Business License is issued to S and M Partners, Inc. DBA Puka Bar, who were authorized to conduct the following type of business: *Bar/Tavern/Lounge* at 710 W. Willow Street.

#### June 8, 2011

Ownership interest in 710-714 W. Willow Street is transferred to the Ronald L. & Peggy C. Mackey Trust which becomes the new owner of the premises.

#### July 21, 2011

Shot Callers, Inc. DBA the Sandbar Lounge and its principal Edgardo Segundo Lasalle, Jr. are cited for having entertainment without a permit in violation of Long Beach Municipal Code (“LBMC”) Chapter 5.72.110.

#### July 19, 2012

**Notice of Violation of Conditional Use Permit and Standards Variance** sent to the *Sandbar Lounge*, 710 W. Willow Street, Long Beach, California 90806 and the *Mackey Family Trust*, 10935 Darby Avenue, Northridge, California 91326-2823. Conditions which were alleged to be violated were: **Condition #14—the operator of the use shall provide security measures to the satisfaction of the Chief of Police.** LBPD requests the installation of a security guard nightly from 6:00 p.m. until closing, including the installation of “live scan” security cameras. **Condition #20—the applicant/developer/operator shall be required to provide for and maintain 5 additional parking spaces from adjoining property owners by shared use agreement for the use of said parking after 5:00 p.m. 7 days a week to the satisfaction of the Director of Planning and Building.** Such agreement shall be recorded in the Los Angeles County records office. Letter asks for an updated Shared Use Parking Agreement between the Sandbar Lounge and Ron Mackey and verification that the new agreement has been recorded with the County Recorder.

**December 9, 2013**

Damitresse Yancey (Enaid's Way, Inc.) submits business license application. Application lists **December 27, 2013** as the "Start Date" for the bar.

**May 2, 2014**

***Nuisance Warning Letter*** finally sent to the right address with the name of the correct owner, Ronald & Peggy Mackey.

**May 5, 2014**

City's Nuisance Abatement Officer receives a phone call from Sean Mackey, owner's son, discusses nuisance activity at the location.

**May 16, 2014**

LBPD Vice Unit mails letter to the business owner Damitresse Yancey of Miko's Sports Lounge outlining the topics discussed during a meeting on April 9, 2014 and ***explaining Ms. Yancey's role as a business owner regarding nuisance activity.***

**May 21, 2014**

Meeting between the owners of the building (Sean & Ron Mackey), City's Nuisance Abatement Officer, City Attorney's Office and LBPD at both the bar location and then at LBPD's West Division headquarters. Discussion of nuisance activity and police calls for service. Request made to owners that action be taken to abate nuisance activity.

**June 5, 2014**

Letter from Sean and Ron Mackey to Ms. Yancey detailing the meetings the property owners have had with both City representatives and LBPD, that the nuisance activity continues and that she might be subject to damages & remedies, alludes to suggested changes to business made by LBPD. Letter asks Ms. Yancey to take action with regard to stopping the nuisance activity from happening at the location. Finally, letter mentions that if the activity continues, Ms. Yancey could be found to be in breach of her lease agreement with property owners.

**June 10, 2014**

City's Nuisance Abatement Officer contacts owner Sean Mackey and goes over the nuisance related calls for service recently received. Requests that Mr. Mackey provide City with a Plan of Action to abate nuisance activity.

**June 16, 2014**

City's Nuisance Abatement Officer contacts to Ron and Sean Mackey to advise them of the continued nuisance complaints of bar noise, loud music (jukebox), noisy patrons leaving the bar, car alarms, car stereos of patrons coming and going from bar.

**July 2, 2014**

City's Health Department sends a letter to Enaid's Way Inc. (business owner), & Ron Mackey(property owner) informing them that a noise complaint had been filed with their Noise Control Officer concerning loud amplified sound at 710 W. Willow Street. ***Request is made for their cooperation in eliminating any unnecessary or unreasonable noise at their location.***

**September 23, 2015**

City's Building & Safety Bureau sends **Administrative Citation Warning Notice** to property owner for modifications made to the property without appropriate building permits, namely the creation of a storage room within the existing structure with electrical and plumbing improvements.

**March 18, 2016**

Letter sent to Miko's Sports Lounge and to property owners (Mackeys) by Planning Officer Christopher Koontz regarding the property being in violation of the Conditions of Approval for the Conditional Use Permit And Standards Variance, namely Condition #14 (security) and Condition #20 (parking).

**April 19, 2016**

Meeting at City Hall with City Attorney's Office, Planning Department, LBPD, Maine Avenue residents and property owners Ronald & Peggy Mackey to discuss the nuisance activity and potential revocations of business license and CUP.

**June 27, 2016**

Letter from Director of Development Services to Miko's Sports Lounge (business owner) and the Ronald L. and Peggy C. Mackey Trust (property owner), regarding the ongoing violations of the Conditional Use Permit and Standards Variance, as well as City's Intention to seek a revocation of the Conditional Use Permit and Standards Variance during a hearing before the Planning Commission.

**August 9, 2016**

City Council approves request that a revocation hearing be scheduled before the Planning Commission for the revocation of the business license issued to Enaid's Way, Inc. DBA Miko's Sports Lounge, as well as the Commercial/Industrial Business License issued to the Ronald L. and Peggy C. Mackey Trust for 710 W. Willow Street as well as the Conditional Use Permit and Standards Variance which was issued on June 15, 1995, and runs with the land located at 710 W. Willow Street.



## EXHIBIT F

### NOTICE of EXEMPTION from CEQA

CITY OF LONG BEACH | DEPARTMENT OF DEVELOPMENT SERVICES  
333 W. OCEAN BLVD., 5<sup>TH</sup> FLOOR, LONG BEACH, CA 90802  
(562) 570-6194 FAX: (562) 570-6068  
lcls.longbeach.gov

**TO:**  Office of Planning & Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

**FROM:** Department of Development Services  
333 W. Ocean Blvd, 5<sup>th</sup> Floor  
Long Beach, CA 90802

L.A. County Clerk  
Environmental Filings  
12400 E. Imperial Hwy., Room 1201  
Norwalk, CA 90650

Project Title: CE- 16-247

Project Location/Address: 710 W. Willow Street

Project Activity/Description: Allow the Planning Commission to review a conditional Use Permit and Standards Variance for a tavern with pool tables, and all business licenses for the operator of the business and owner of the property located at 710 W. Willow Street.

Public Agency Approving Project: City of Long Beach, Los Angeles County, California

Applicant Name: City of Long Beach Development Services

Mailing Address: 333 W. Ocean Blvd, 5th Floor

Phone Number: (562) 570-6194 Applicant Signature: \_\_\_\_\_

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: CE 16-247 Planner's Initials: JR

Required Permits: \_\_\_\_\_

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15321, Class 2, Enforcement Actions by

Regulatory Agencies

Statement of support for this finding: Revocation of business license and and entitlement for land use

Contact Person: Craig Chalfant Contact Phone: 562-570-6368

Signature: Craig Chalfant Date: 10/12/16