

# Pine Ave. Residential, Dining and Entertainment District Petition

Dear Downtown Long Beach Stakeholders:

On Saturday, September 24<sup>th</sup> @ 1:30 pm Pine Ave. residents homeowners and stakeholders met to create the community panel. In attendance were: Leslie and Suzanne Speyer- Ofenberg, Kevan Vance, Kipp Gillian, Don Darnauer, Harry and Susan Holgate, Shirley Rhoads, Kelly Thananant, Preethi Puthanveetil, John Morris, Jimmy Loizoes, Marie Deary, and Mr. Cohen.

**The Group decided to name themselves and create the community panel.**

Name: Downtown Long Beach Stakeholders

**The Community Panel will consist of:** Three residents and one alternate: Kipp Gillian- Walker Building alternate Harry Holgate, Shirley Rhoads- Kress Lofts alternate Kelly Thananant, Don Darnauer- Downtown Residential Coalition, alternate Ted Hampton- Archstone) Two Business Owners (John Morris- Smooth's, Marie Deary- 2000+ Bookstore, alternate Jimmy Loizoes of George's. Greek Café, Long Beach Police Deputy –atleast one Deputy Chief, Long Beach Fire Deputy – atleast one Deputy Chief and One Member of the City staff.

## **Background history:**

On June 21, 2005, the Long Beach City Council directed City staff to work with the DLBA, resident homeowner associations and other stakeholders to develop a Dining and Entertainment District for the downtown Pine Avenue core area. The Dining and Entertainment District should benefit businesses on Pine Avenue while ensuring the quality of life for residents that are impacted by the creation of the Entertainment District with new hours and/or conditions of operation.

After several meetings with business and residents on Pine Ave, the following agreements were made:

### **Residential, Dining and Entertainment District Boundaries:**

Ocean Blvd. to 3<sup>rd</sup> Street and Pacific Avenue to LB Blvd.

### **Hours of Entertainment**

Entertainment seven nights a week, until 2 am, with doors and windows open.

Each establishment is responsible to comply with the "middle of the street" rule, where the sound of music is not audible from the middle of the street adjacent to the establishment. Rooftop venues (i.e.: Smooth's) would need to comply with this condition as well.

### **Community Panel**

Create a Community Panel consisting of residents, business and commercial property owners, LBPD, LBFD and city staff to review any nuisance complaints against venues not in compliance

with state and local ordinances, and with the Downtown Dining and Entertainment District standards. Recommendations for suspension and revocation are being made to the City Council.

#### 4. Policing

Create a specific Downtown detail to benefit the existing residential and business base and not a result of requesting these conditions on the dining and entertainment district.

The following is a proposal for the amount of personnel, shifts and cost analysis for the proposed Pine Avenue/Pike Entertainment District.

Total Personnel = 12 Officers and 1 Sergeant, Total personnel of 13

Proposed Shifts:

8 officers + 1 Sergeant work Wednesday, Thursday, Friday and Saturday (Sunday, Monday and Tuesday Off).

Work Hours would be 5:00pm to 3:00am – 10 hour Shift

4 Officers would work Sunday, Monday, Tuesday and Wednesday (Thursday, Friday and Saturday Off).

Work Hours would be 5:00pm to 3:00am -10 hours shift

Cost per Officer is approximately \$30.00 Dollars per hour. Cost per Shift (One Officer) = \$300.00 Dollars  
Cost per Sergeant is approximately \$37.00 per hour. Cost per Shift (One Sergeant) = \$370.00 Dollars

Cost per day, Wednesday through Saturday = (8 Officers) = \$2,400.00

4 Day Cost = \$9600.00 (8 Officers)

4 day cost Sergeant = \$370.00 per X 4 days = \$1,480.00

Total Cost Officers (8) + (1) Sergeant = \$11,000.00 per Week to cover Wednesday through Saturday.

Sunday through Wednesday = (4 Officers) 4 Days = \$1,200.00 Dollars per day.

Total per week (4 Days) = \$4,800.00 Dollars

Total Seven Days coverage 12 Officers + 1 Sergeant Cost = \$15,000.00 per week

Total per month = \$60,000.00 Dollars

Total per year = \$720,000.00 Dollars

5. The operation of the establishment shall be limited to those activities and elements expressly indicated on the entertainment permit application and approved by the City Council. Any change in the operation, which exceeds the conditions of the approved permit, will require that a new permit application be submitted to the City Council for their review and approval.
6. No adult entertainment, as defined by section 5.72.115(B) LBMC shall be conducted on the premises. The establishment shall not allow, permit, procure, or encourage anyone to expose male or female genitals, cleft of the buttocks, the areola or any portion of the breast below the areola, while at or inside the business.
7. Current occupancy loads shall be posted at all times, and the licensee shall have an effective system to keep count of the number of occupants present at any given time. (LBMC section 18.48.320)
8. The permittee agrees to reimburse the City whenever excessive police services, as determined by the Chief of Police, are required as the result of any incident or nuisance arising out of or in connection with the permittee's operations.

9. The permittee shall provide a minimum of one (1) uniformed security guard during all times that the entertainment activities are being conducted for crowds up to two hundred and fifty people. For crowds over two hundred and fifty people the permittee shall provide a minimum of one (1) additional uniformed security guard per two hundred and fifty (250) people. Security guards must be identifiable as "establishment employees." Should the permittee's operations give rise to a substantial increase in complaints/calls for service, or trash left in the parking lot, the permittee shall increase security as directed by the Chief of Police.
10. The permittee shall not convert the restaurant, or any portion thereof, into a dance/night club. All entertainment activities shall be conducted in conjunction with regular dining or pre-planned banquet activities. A banquet is defined as a function held at a bona fide eating-place wherein complete and substantial meals are provided to the persons in attendance by the management of the restaurant where the function is being held. Fast food, snacks and hors d'oeuvres shall not constitute a complete substantial meal.
11. Persons under twenty-one (21) years of age shall not be permitted to enter or to remain on the premises after the restaurant (food services) portion of the establishment has closed.
12. Persons under eighteen (18) years of age shall not be permitted to enter or to remain on the premises after 10 p.m., unless accompanied by a parent or legal guardian.
13. The permittee shall maintain full compliance with all applicable laws, ABC laws, ordinances and stated conditions.
14. The establishment shall take reasonable measures to prohibit and prevent the loitering of persons immediately outside of any of the entrance/exit doors at all times open for business. This should be done by use of security guards and signage indicating, words to the effect of, "Please respect our neighbors." Signage shall be placed near all doors and exits.
16. The establishment, its promoters, or agents shall not distribute any advertising matter in or upon any public property, or in any vehicle in any such place in the city. Distribution of any advertising matter upon private property should adhere to the following guidelines: By placing the same matter in a receptacle, clip, or other device designed or intended to receive advertising matter.
17. All promoters must have or obtain a City of Long Beach Business License prior to conducting Entertainment related activities governed by this permit. The permittee shall be responsible for all entertainment activities at the location, including those conducted by promoters.
18. The permittee must provide all promoters hired to conduct entertainment activities with a copy of the approved permit, which shall include a copy of the approved conditions of operation.
19. Close Pine Ave to vehicular traffic between Broadway and 3<sup>rd</sup> and/or from points north on weekend nights at a time to be determined.  
Moratorium on liquor licenses  
Plan to maintain retail mix within the entertainment district, by enforcing a moratorium on any more restaurants or lounges between Ocean and 4<sup>th</sup> Street.

**FINAL DRAFT**  
**Proposed Entertainment**  
**District Conditions of Operation**

**ATTACHMENT 2**

"Entertainment" as used here shall have the same definition as "entertainment activity" contained in LBMC Section 5.72.115:

- A. "Entertainment activity" means any activity conducted for the primary purpose of diverting or entertaining a clientele in a premises open to the general public. Said activity shall include, but shall not be limited to, dancing, whether by performers or patrons of the establishment, live musical performances, instrumental or vocal, when carried on by more than two (2) persons or whenever amplified; musical entertainment provided by a disc jockey or karaoke, or any similar entertainment activity involving amplified, reproduced music.

Permittee understands and agrees that the conditions attached here are in addition to the requirements of LBMC Sections 5.72 and 21.115.110. In the event of a conflict between the permittee's ABC license and this permit, or between a conditional use permit and this permit, the more stringent condition shall apply.

Permittee understands and agrees that he or she is excused from complying with the Additional Conditions set forth in Attachment "A" so long as his or her operation complies with all of the conditions in this permit as well as all other applicable laws and regulations. Failure to comply will result in the enforcement of increasingly more stringent Additional Conditions and may result in a decision to suspend or revoke the Entertainment Permit.

This permit does not modify or limit in any way the authority of the Chief of Police to enforce Penal Code Section 415 (disturbing the peace) against any person or entity, or of the Chief of Police or the Fire Marshal to immediately take action in the event of an imminent threat to public health or safety.

1. Hours of Operation for indoor entertainment, amplified or non-amplified: **[intentionally left blank]**  
Hours of Operation for outdoor non-amplified music: **[intentionally left blank]**  
Outdoor amplified entertainment is prohibited except in conjunction with a \_\_\_\_\_ special events permit.
2. Each holder of an existing entertainment permit within the entertainment district and each new applicant for a downtown area entertainment permit, including an applicant who acquires an existing business through a change of ownership, shall, within ninety (90) days of application, attend a permit orientation session conducted by or at the direction of the City. Each new applicant for a downtown area entertainment permit, including an applicant who acquires an existing business through a change of ownership, shall, within ninety (90) days of application, submit proof of attending the LEAD program offered by the Department of Alcoholic Beverage Control.
3. The permittee shall comply with all applicable laws, regulations, ordinances and stated conditions. It is the intent of the City that each permittee make his or her own business decisions as to how to implement compliance; however, if the permittee fails to comply with the conditions of this permit, or if his or her operations result in excessive police service as defined below, the permittee will be required to operate under the more restrictive conditions described in Attachment "A" and made a permanent part of this permit without further hearing.

4. The permittee shall be responsible for all entertainment activities at the location, including those conducted by promoters. Each permittee and promoter conducting business within the City of Long Beach must have or obtain a City of Long Beach Business License prior to conducting entertainment activities governed by this permit. The permittee shall provide all promoters and agents hired to conduct entertainment activities with a copy of the approved permit, which shall include a copy of the approved conditions of operation
5. The operation of the establishment shall be limited to those activities and expressly indicated on the entertainment permit application and approved by the City Council. Any change in the operation that exceeds the conditions of the approved permit will require approval by City Council.
6. The permittee shall comply with the requirements of LBMC Sec. 8.80 (Noise) at all times. In addition, in response to a complaint, the Police Department will enforce Penal Code Section 415 (disturbing the peace) and all other state and local provisions related to the "public peace." Permittee shall conduct all aspects of his or her operation, including before- and after-hours deliveries and maintenance, in consideration of residences located nearby. Permittee agrees that the following standard is reasonable: Noise emanating from Permittee's premises shall not be audible from the middle of the street adjoining the premises.
7. No adult entertainment, as defined by section 5.72.115(B) LBMC shall be conducted on the permitted premises. The permittee shall not allow, permit, procure, or encourage, anyone to expose male or female genitals, cleft of the buttocks, the areola or any portion of the female breast below the areola, while at or inside the business.
8. Current occupancy loads shall be posted at all times, and the permittee shall have an effective system to keep count of the number of occupants present at any given time and provide that information to public safety personnel upon request. (LBMC section 18.48.320)
9. Should the permittee's operations give rise to a substantial increase in complaint/calls for police service, the permittee shall increase security staff, implement the use of electronic metal detection equipment, increase outside lighting, or make other changes to the premises or operation as the Chief of Police determines are necessary to protect the safety of the public. In the event of a conflict on this issue between the requirements of this permit and any permit issued by the Alcoholic Beverage Commission, the more stringent regulation shall control.
10. The permittee shall be responsible for maintaining an adequate security staff to supervise patrons and those waiting to enter. Potential patrons awaiting entry in a defined "queue" shall be counted toward the calculation of required security staffing levels. For up to fifty (50) people inside (or in a defined queue waiting to enter) an establishment, the permittee shall provide a minimum of one (1) uniformed licensed security guard per floor. There shall be one additional guard for each subsequent increment or each partial increment of 50, plus one guard per each additional floor. (Example: a one-story establishment with 75 patrons present must have two guards. A two-story establishment with 75 patrons present must have three guards.) Potential patrons awaiting entry in a defined "queue" shall be counted toward the calculation of required security staffing levels. The Chief of Police may relax these staffing levels during daylight hours, or during hours in which the primary activity in the establishment is dining, if he determines that a lower level of security staffing is consistent with the protection of public health and safety.

The attire of each security guard shall clearly indicate the guard's affiliation with the establishment by means of a pin, shirt, or other clearly-visible form of identification.

11. If an establishment is licensed as a restaurant, all entertainment activities shall be conducted in conjunction with regular dining or pre-planned banquet activities. A banquet is defined as a private function held at a bona fide eating-place wherein complete and substantial meals are provided to the persons in attendance by the management of the restaurant where the function is being held. Fast food, snacks and hors d'oeuvres shall not constitute a complete and substantial meal. Taverns are not subject to this requirement.
12. Persons under eighteen (18) years of age shall not be permitted to enter nor permitted to remain on the premises after 10 p.m., unless accompanied by a parent or legal guardian.
13. The permittee shall establish a program to discourage loitering and littering outside any of the entrance/exit doors at all times open for business. This should be done by use of security guards and/or signs near all exits that encourage patrons to "respect our neighbors" and the provision of trash receptacles.
14. At the conclusion of each event and at closing time, the permittee's staff shall remind patrons to refrain from loitering in the immediate area, littering or making excessive noise. Patrons should be reminded to use trash receptacles and to walk directly and quietly to their cars or other transportation.
15. The permittee shall not distribute, post or attach, and shall be responsible for ensuring that its promoters and or agents do not distribute, post or attach, advertising matter on public property or on any vehicle on public property.
16. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the permittee shall be removed or painted over within 24 hours of being applied.
17. When the Chief of Police determines that excessive police services are required as the result of any incident or nuisance arising out of or in connection with the permittee's operations, the cost of such services shall be billed to the permittee as an expense of an emergency response. "Expense of an emergency response" means those costs incurred by the city of Long Beach in making any appropriate emergency response to the incident, and shall be comprised of all costs directly arising because of the response to the particular incident, including, but not limited to, the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, as well as the salaries of the personnel responding to the incident."

**FINAL Draft 10/25/05**

**Attachment**

**This page contains progressively more stringent regulations on entertainment and related activities in the Dining and Entertainment District. By applying for a permit, the applicant agrees to the conditions contained here and understands that he or she is not entitled to a public hearing if these conditions are applied. The City Council may add further conditions not listed here, or revoke the permit, if the permittee does not comply with the conditions imposed in this permit.**

**The conditions on this attachment do not modify or limit in any way the authority of the Chief of Police to enforce Penal Code Section 415 (disturbing the peace) against any person, or of the Chief of Police or the Fire Marshal to immediately take action in the event of an imminent threat to public health or safety.**

**Tier 1 Conditions:**

Permittee may have entertainment on the premises during the maximum hours permitted in the district, consistent with ABC requirements and conditions imposed under a Conditional Use Permit. As long as the primary requirements for safety and noise are met (Conditions 1-17), Permittee may choose the methods of meeting those requirements.

Noncompliance with Tier 1 conditions: when the Chief of Police determines that Permittee has violated the terms of the permit, including the Permittee's obligation to comply with all other laws and regulations, but believes those violations can be remedied through education and/or minor modifications to Permittee's operation, Permittee will be asked to attend a meeting with the involved departments and the community advisory panel to address community concerns and discuss how the implementation of Tier 2 Conditions can be avoided.

**Tier 2 Conditions:**

**Noise:**

Following the receipt of 3 or more noise complaints require a response by the Police Department within a 30-day period and which are found to violate the "middle of the street" standard for noise, Permittee will be notified that his or her premises must comply with those Tier 2 Noise Conditions which the Chief of Police determines are necessary to protect the public peace and to comply with the City's noise ordinance, from among the following list:

- Permittee must keep all doors and windows closed except while patrons are entering or exiting.
- Meet with Health Department staff to discuss best practices to be implemented to mitigate noise.
- No outdoor entertainment of any kind will be permitted after 10 p.m.

--- No queue after midnight. Any persons gathering outside the establishment shall be considered to be loitering.

#### Security/Public Safety:

For the purposes of this section, an "incident" means a complaint or occurrence which requires a police or Fire Marshal response to Permittee's premises due to Permittee's noncompliance with the terms and conditions of the Entertainment Permit. Following 3 or more incidents within a 30-day period, the Chief of Police or Fire Marshal will notify Permittee of additional measures and conditions to be implemented. These additional measures will be some or all of the following:

--- Additional security personnel at hours determined necessary by the Chief of Police to prevent Permittee's operations from creating a public nuisance.

--- Additional security checks on incoming patrons.

---No queue after midnight. Any persons gathering outside the establishment shall be considered to be loitering.

---Any additional measures deemed necessary by the Chief of Police or the Fire Marshal to protect health and safety.

NOTE: upon the request of a permittee who has been required to implement Tier 2 conditions, the Chief of Police, in consultation with the Fire Marshal and the Health Department, shall review the permittee's recent compliance history and determine whether some or all conditions can be returned to Tier 1 levels consistent with the protection of public health and safety.

#### Tier 3 Conditions:

The failure of a permittee to resolve noise and/or security/public safety issues as directed by the Chief of Police or the Fire Marshal within a reasonable period, not to exceed 30 days in any case, shall result in the implementation of Tier 3 conditions:

#### Noise:

---No outdoor entertainment of any kind will be permitted at any time.

---Only non-amplified entertainment will be permitted at any time OR amplified entertainment will only be permitted until 10 p.m. any night.

--Contain all noise within the premises. No noise audible outside the establishment.

---Implement Health Department recommendations to mitigate noise. Provide pre- and post-implementation monitoring data collected by a certified noise expert approved by the Health Department.

#### Security/Public Safety:

---The establishment must cease entertainment not later than 10 p.m. on Sunday through Wednesday nights and no later than midnight on Thursday through Saturday nights. The Chief of Police is authorized to make adjustments of up to one hour in these times to protect the public peace.



---Permittee shall limit the queue outside the establishment to no more than 20 people. There shall be no queue within 2 hours of the lawful closing time. Any persons gathering outside the establishment shall be considered to be loitering.

---Any additional measures determined necessary by the Chief of Police or the Fire Marshal to protect health and safety.

If the City determines that Permittee has not modified his or her operations in compliance with Tier 3 conditions and Permittee continues to fail to comply with the terms and conditions of the Entertainment Permit, the City shall begin revocation proceedings. Permittee is entitled to a hearing to contest such revocation.

## ATTACHMENT 3

### ENTERTAINMENT CONDITIONS BENCHMARK CITIES

	Ent. Hours	Doors Open/Shut	How Noise Regulated	Outdoor Entertainment	Remarks
<b>San Jose (Entertainment Zone)</b>	12:00 midnite or 2:00 AM 7 days per week (Depends on CUP for the property. A new business does not change hours. Most restaurants stop at 12:00, clubs until 2:00)	Not addressed.	Prevent unreasonably loud or disturbing noise emanating to neighboring properties. Enforced by PD responding to complaint.	Outside amplified music is not permitted.	Chapt 6.60 of SJMC on Public Entertainment and Downtown Entertainment Zone.
<b>San Diego (Gaslamp)</b>	2:00 AM 7 days per week	Doors open. Some may have ABC or CUP prohibitions.	No noise to be heard off premises.	Not addressed. (Establishments must conform to noise ordinance.)	Ent. Permits approved by Police Dep.
<b>Santa Monica (3rd Street Promenade)</b>	Varied. (Depends on CUP and ABC Permit.)	Shut	Require soundproofing and entrance vestibules. Noise Ordinance: 10 pm to 8 am, 65 dba for 5 minutes, 60 dba for 15 minutes.	No amplified. Non-amplified must meet noise ordinance.	Ent. requires zoning approval and police permit.
<b>Pasadena (Old Town)</b>	1:30 AM 7 days per week	Not addressed.	15 db above ambient (assumed to be 60 db)	Not addressed. (Establishments must conform to noise ordinance.)	No longer issue entertainment permits. (Part of CUP)
<b>Los Angeles (Hollywood District)</b>	Intentionally staggered to 1:00, 2:00, 4:00, 6:00 and 24 hour entertainment.	Shut	No noise to be heard louder than ambient street noise.	They have a few permits that allow roof-top amplified entertainment. Must comply with noise ordinance.	For Hollywood district, have establishments sign "Volunteered Conditions"
<b>Long Beach Now</b>	Varied. Each entertainment permit was a separate action by the City Council over a 20-year period. Latest entertainment is 2:00 AM pursuant to LBMC.	Shut	Entertainment permits state that no noise should be heard outside the premises. Must comply with LBMC 8.80 Noise Ordinance. (50 db for music between 10 pm and 7 am, downtown area.)	With one exception, no amplified outdoor entertainment.	
<b>Long Beach Proposed</b>	2:00 a.m. 7 days per week or 12:00 midnight, Sun - Wed 2:00 a.m., Thurs - Sat	Doors open. Some may have ABC, CUP or Health Department restrictions.	Must comply with LBMC 8.80 Noise Ordinance. Permittee to agree that noise emanating from premises shall not be audible from the middle of the public street adjoining premises.	No amplified. Non-amplified is allowed so long as it complies with the noise ordinance and is consistent with the limitations placed on indoor intertainment at each establishment.	All entertainment permits in district to be reissued with standard hours and conditions. In some cases ABC, CUP, or Health Department requirements may be more restrictive.

# Entertainment Permits and Residential Developments North of Ocean Blvd.

**ENTERTAINMENT PERMITS**

Name	Week	Fri/Sat	Sun
Aladdin	12:00	2:00	
Alegria	11:30	1:15	
Blue Café	12:00	2:00	
Cohiba	12:00	2:00	
El Gran Inca	12:00	2:00	
Hush	2:00	2:00	
King's Fish House	10:00		7:00
Madison	10:00	12:00	
Mariposa	10:00	2:00	
NY Bryan's	12:00	2:00	
Rock Bottom	1:00	1:00	
Sevilla	TBD	TBD	
Smooth's	12:00	2:00	
Taco Beach	12:00	2:00	
Vault 350	2:00	2:00	
Wasabi	11:00	1:30	

— Proposed Entertainment District Boundary

Press-Telegram Project  
350-400 Units

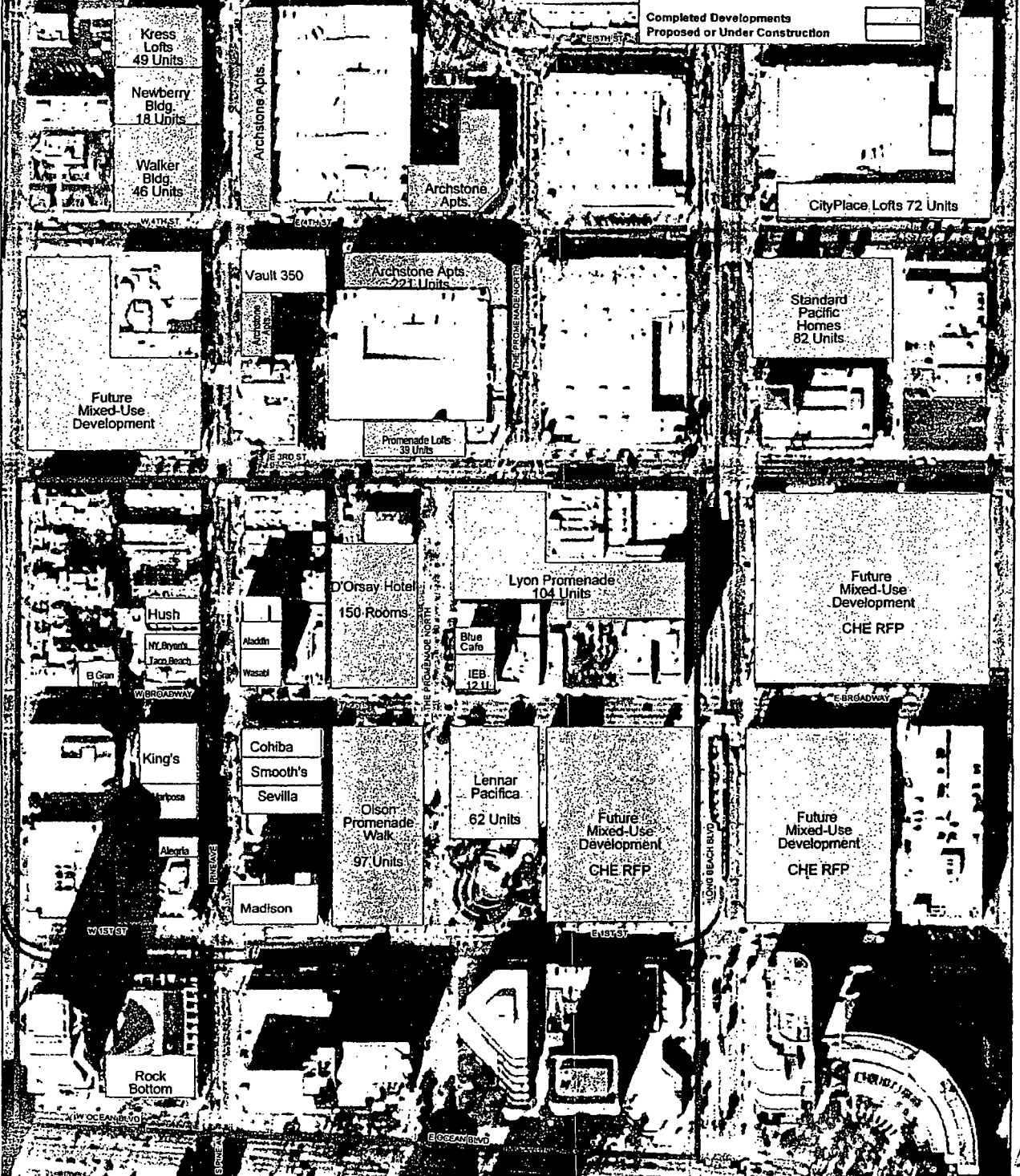
**Residential Developments - New**

Development	Units
Cedar Court	84
Future Mixed Use Dev. - CHE RFP	TBD
CityPlace Lofts	72
D'Orsay Hotel	150
Insurance Exchange Bldg.	12
Lennar Promenade	62
Lyon Promenade	104
Newberry Bldg.	18
Olson Promenade	97
Press-Telegram	350-400
Promenade Lofts	39
<b>Total New Units</b>	<b>638</b>
<b>Total New Units within District</b>	<b>425</b>

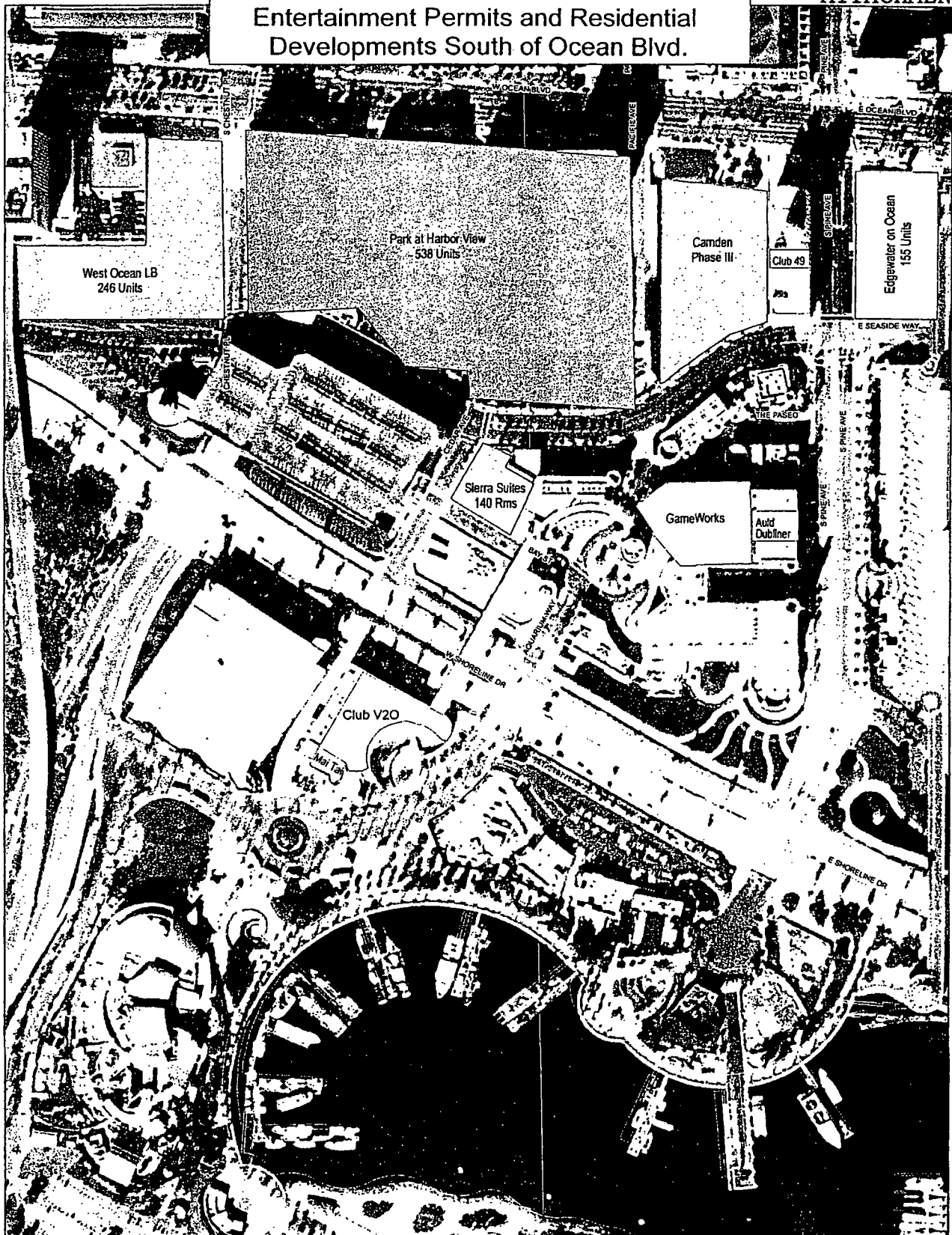
**Residential Developments - Existing**

Development	Units
Archstone	221
Kress Lofts	49
Walker Bldg.	46
<b>Total Existing Units</b>	<b>316</b>

**Completed Developments Proposed or Under Construction**



Entertainment Permits and Residential Developments South of Ocean Blvd.



Residential Developments - New	Units
Camden - Phase III	TBD
Edgewater on Ocean	155
Sierra Suites Hotel	140
West Ocean Long Beach	246
<b>Total New Units</b>	<b>541</b>

Residential Developments - Existing	Units
Park at Harbor View	538

Completed Developments	Units
Proposed or Under Construction	

ENTERTAINMENT PERMITS

Name	Week	Fri/Sat
Auld Dubliner	1:00	1:30
Club 49	12:00	2:00
Gameworks	12:00	2:00
Mai Tai Bar (requested)	2:00	2:00
Parkers' Lighthouse	2:00	2:00
V20	2:00	2:00

Parkers' Lighthouse

