

January 9, 2006

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
January 17, 2006**

SUBJECTS: ANNUAL REVIEW AND REPORT ON CONDITIONAL USE PERMIT (C.U.P.)
COMPLIANCE FOR PIER PLAZA AND DOWNTOWN AREA BUSINESSES

Staff Recommendation:

To direct staff as deemed appropriate from the following alternatives:

1. To receive and file, and continue issuance of citations by the Police Department for C.U.P. violations
2. Conduct further investigations with the Code Enforcement Officer, and report back with a status report update for businesses with multiple citations over the previous year.
3. Schedule informal hearings at Planning Commission for businesses with multiple violations to review violations and steps to achieve compliance.
4. Schedule CUP revocation hearings for businesses with three or more violations to consider modification or revocation of the CUP.

Background:

Consistent with the Planning Commission's conditional use permit annual review policy, in January and February 2005, staff presented police incidents reports and investigation records for various downtown businesses and heard testimony from the Police and Fire Departments. Based on this testimony, the Commission recommended that City Council authorize enforcing C.U.P.'s by issuing citations for violations. In a follow up meeting the City Council confirmed that enforcement of C.U.P. would be by citation. The intent was to also use citations as a way to track frequent or problem violators, and use the citations as a record for reviewing the status of compliance with C.U.P.s and as a record for possible revocation if problems were found to be serious.

Analysis:

There appears to be continuing code violation problems as evidenced by the number of citations that have been issued by the Police Department for C.U.P. violations and the Fire Department for overcrowding, and more importantly repeat citations for the same violations. The specific violations are attached and related to either loud music (i.e. doors and windows not being closed) or overcrowding. The businesses that cause the most concern are the repeat violators, because these businesses are not correcting their problems in response the citations. The following businesses had repeat violations:

Business / Address	Citation (number of violations)	Dates
Dragon / 22 Pier Ave	Loud Music (4), Overcrowding (1)	4/22, 5/12, 5/28, 7/3, 11/3
The Lighthouse / 30 Pier Ave	Loud Music (2), Overcrowding (1)	4/28, 7/3, 10/28
Aloha Sharkeez 52 Pier Ave	Loud Music (3)	4/22, 6/2, 11/11
Fat Face Fenner's Fishack/ 53 Pier	Loud Music (2)	4/23, 10/27
Sangria / 60 Pier Ave	Loud Music (5)	4/22, 5/20, 6/9, 10/27, 10,28
Blue 32 / 1332 Hermosa Ave	Overcrowding (3)	7/3, 12/4, 12/17

The Commission has specific authority with respect to the Conditional Use Permit violations. Pursuant to Section 17.70 of the Zone Code, the Commission may revoke a CUP on any one or more of the following grounds:

- A. That the approval was obtained by fraud;
- B. That the use for which such approval is granted is not being exercised;
- C. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
- D. That the permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation;
- E. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

The process requires a noticed public hearing at Planning Commission, where, upon consideration of all the facts and public testimony, the Commission may revoke or modify the conditions of the CUP to address specific problems. If modification is deemed appropriate, the Commission may establish more restrictive operating conditions, which can range from eliminating live entertainment to establishing earlier closing times. The City Attorney has advised that a conditional use permit conveys a property right to the business and that the Commission must carefully weight the relevant evidence before revoking or modifying a permit. Revoking a CUP will also result in suspension of the business alcohol license issued by the Alcohol Beverage Control (A.B.C.).

Sol Blumenfeld, Director
Community Development

Mike Lavin,
Police Chief

Russell Tingley,
Fire Chief

Attachments:

1. Citations (including memorandum from Fire Chief)

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