

January 9, 2006

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

**Regular Meeting of
January 16, 2007**

**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 Community Development and Police Departments 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, on January 17, 2006, staff presented police incident 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 staff pursue item Nos. 1 & 2 above. The Commission also directed that staff cite for infractions of the Municipal Code for CUP violations and that effort continued through 2006.

Analysis:

In 2006, there were continuing code violation problems as evidenced by the number of complaints that were responded to by the Police and Fire Departments for various violations and by the Community Development Department for CUP violations as shown on the attached table. (Please see Attachment No. 1) The specific violations or incidents relate to "loud music" (i.e. doors and windows not being closed), assaults, thefts, and "disturbance". Please note that the Police Department may identify a "disturbance call" in many situations with the business closest to the incident as a matter of convenience and not because the incident actually took place in the business. A "disturbance call" is a general call out. It is not possible to disaggregate the disturbance calls without listening to Police dispatch recordings for each business incident. Many disturbance calls are concentrated around a few businesses because they are simply located in more highly concentrated areas. In areas with no concentration of businesses, the disturbance calls are more likely to be correlated with the business identified in the incident report. For example, disturbance calls to the Pitcher House, Saffire or Suzi's may be more directly related to these businesses because they are not in concentrated areas.

The Code Enforcement Officer investigated downtown business activity three times in December, and once in January 2007 on weekend days and nights as follows:

- Saturday, 12/9/06 8:30 – 10:00 p.m. - No violations were observed and no citations were issued as there was limited activity due to poor weather.
- Sunday, 12/10/06 3:00 – 4:30 p.m. Recorded music from Dragon was audible from across the plaza, and was turned down after a brief discussion with staff. The sound of football games were audible across the plaza from Patrick Malloy's and sound was reduced after a brief discussion with staff. No citations were issued.
- Saturday, 12/16/06 2 – 4 p.m. conditions were windy and chilly, no violations were observed and no citations were issued.
- Saturday 1/13/07 - Supplementary report provided at Commission meeting 1/16/07.

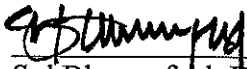
The Commission has specific authority under Section 17.70 of the Zone Code to revoke or modify a CUP on any of the following grounds:

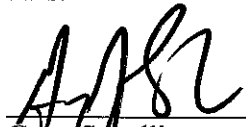
- A. That the approval was obtained by fraud;
- B. That the use for which such approval is granted is not being exercised;
- C. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
- D. That the permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, 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.

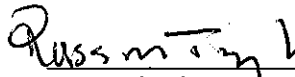
Under the above provisions, the Commission may establish more restrictive business operating conditions, which can range from eliminating live entertainment to establishing earlier closing times. The City Attorney has advised that a conditional use permit conveys a property right and that the Commission must carefully weigh the relevant evidence before revoking or modifying a CUP. Revoking a CUP will also result in suspension of the business alcohol license issued by the Alcohol Beverage Control (A.B.C.).

Conclusions:

There has been some improvement for many downtown restaurants, however there are still significant CUP and Municipal Code violations, even discounting many of the incidents for "disturbance" calls. Given Code Enforcement staffing limitations the best method to achieve CUP and code compliance is to continue to monitor downtown businesses and enact an Administrative Penalties Ordinance, and cite violators using Parking Enforcement to augment Code Enforcement staff during late night and weekend hours.


 Sol Blumenfeld, Director
 Community Development


 Greg Savelli
 Police Chief


 Russ Tingley
 Fire Chief

Attachments:

1. Summary Table of Incidents

Business/ Address	CUP/Code Enforcement	HBFD Citation	HBPD Reports	Total
Barnacles - 837 Hermosa	None	None	2 disturbance, 1 battery, 1 rescue, 1 theft	5
Shark's Cove - 1220 Hermosa	None	None	5 disturbance, 1 rape, 1 theft	7
Café Boogaloo - 1238 Hermosa	None	None	4 disturbance	4
The Shore - 1320 Hermosa	TV's on patio removed after citation. 1 noise violation. Acoustic study required & supplied. Complaint of acoustic rehearsal.	None	20 disturbance, 8 loud music, 1 battery, 1 rescue	34
Blue 32 - 1332 Hermosa	None	None	69 disturbance, 2 loud music, 2 theft, 8 battery, 6 rescue	87
The Underground - 1334 Hermosa	None	None	27 disturbance, 7 loud music, 4 theft, 2 battery, 5 rescue	45
Hennessy's - 8 Pier	None	None	23 disturbance, 1 loud music, 2 theft, 2 battery, 3 rescue, 1 vandalism	34
Dragon - 22 Pier	TV's on patio, possible appeal. 1 noise violation observed	1 overcrowding	52 disturbance, 8 loud music, 4 theft, 3 battery, 4 rescue	74
Lighthouse - 30 Pier	1 noise violation observed	None	25 disturbance, 1 loud music, 1 battery, 4 rescue	33
Il Boccaccio - 39 Pier	Removing table, chairs for dancing - warning letter sent	None	2 disturbance, 2 rescue	5
Patric Malloy's - 50 Pier	None	None	37 disturbance, 4 theft, 1 battery, 10 rescue, 1 vandalism	54
Fenner's - 53 Pier	None	None	21 disturbance, 3 loud music, 1 battery, 2 rescue	27
Sangria - 60/68 Pier	None	None	23 disturbance, 2 theft, 5 battery, 4 rescue	34
Mediterraneo - 73 Pier	Roof framing altered	None	3 disturbance	3
Saffire - 705 Pier	Investigate - no food service	1 overcrowding	29 disturbance, 7 loud music, 1 assault, 1 kidnapping	40
Union Cattle Co. - 1305 Manhattan	Monitor 'seasonal tent' on roof deck	1 overcrowding	None	1
Suzy's - 1141 Aviation	None	None	1 disturbance	1
Hermosa Saloon - 211 PCH	None	None	4 disturbance, 1 theft	5
Pitcher House - 142 PCH	None	None	7 disturbance, 3 loud music, 3 battery, 1 rescue	14