



## Staff Report

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### Honorable Chair and Members of the Hermosa Beach Planning Commission

#### Regular Meeting of November 17, 2020

Receive Tri-Annual Report for On-Sale Alcoholic Beverage Conditional Use Permits

#### **Recommended Action:**

Receive and file the report.

This report covers the period from March 1 to August 31, 2020. Based on the information in the report, no establishments have reached the “Standard Initiating Planning Commission Review”. In the previous report submitted to the Planning Commission on October 20, 2020, staff indicated that one establishment had reached the threshold for further review due to three CUP/Health Department violations. After further review, it was determined that one of the violations involved the allegation of patrons drinking in front of the business but it was not observed by city staff and should not be counted as a CUP violation.

#### **Background:**

Since 2017 the tri-annual reviews of on-sale alcoholic beverage establishments includes the two-step process of providing an informational report before scheduling a hearing. The Process and Standards, updated in 2019, is Attachment 1.

Changes to the process and reporting for this review, recommended by the Planning Commission, were approved by the City Council in March 2019, and include reporting and conducting the review three times a year. This is the third report in 2020 and covers the prior 6 months. The hearing to discuss and evaluate this report will be at the next Planning Commission Meeting, Tuesday November 17, 2020.

The establishments required to prepare food to alcohol ratio reports for the first half of 2020 are included in this report. The next report will be presented in February 2021 and will cover the period between July 1 and December 31, 2020.

In late March, 2020 the LA County Department of Public Health ordered the closure of non-essential businesses which included all bars and restaurants. Under the LA County Health order, restaurants were still permitted to serve take-out orders and alcohol to go provided it was served in sealed

containers with a food order.

The regulatory relief by the ABC clearly stated “Further, such beverages may not be consumed in public or in any other area where open containers are prohibited by law.” HBMC 17.40.080(a)(2) states “The business shall prevent loitering, unruliness and boisterous activities of the patrons outside the business or in the immediate area.” Considering the requirements of the ABC regulatory relief and the requirements of the HBMC, it is the responsibility of each business to ensure that their patrons do not consume to-go alcohol in the immediate area.

On May 20, 2020, the LA County Department of Public Health, allowed limited re-openings of restaurant seating in in outdoor locations only, and continuation of the allowance for take-out orders of food and alcohol.

### **Analysis:**

#### **Police Reports and ABC Activity:**

The Police Report includes a thorough summary of approach to reporting incidents, and their review and statistics related to each location.

For the reporting period of March 1 and August 31, 2020, the Police Department highlighted the following violations which are considered CUP violations for the purpose of this report:

#### **Barnacles Bar and Grill, 837 Hermosa Avenue:**

- Violation of the County Health order on 4/25/20 by allowing patrons to consume alcohol on the patio, a practice for which they had been previously warned. This is separate from the later closure by the County Health Department.
- Violation of HBMC 17.40.080 on 5/13/20 when several patrons we seen drinking in front of the location. After further review, no violations were observed by the Police Department and this incident should not be counted as a CUP violation. The call of patrons drinking in front was discussed with the business owner.

#### **The Deck, 1272 The Strand:**

- Violation of HBMC 17.40.080 on 5/16/20 when several patrons were seen drinking in the alley. The business had placed several chairs and tables in the alley adjacent to their back door. The business brought the furniture inside after being contacted.

#### **Silvio's, 20 Pier Avenue:**

- Violation of HBMC 17.40.080 on 5/10/20 when several patrons were seen drinking in front of

the business.

Slaters 50/50, 11 Pier Avenue:

- Slaters 50/50 violated HBMC 17.40.080 on 5/10/20 when several patrons were seen drinking in their parking lot.

Any single incident may not rise to the level of a citation of the business if they can immediately correct the violation. However, repeated or egregious violations, over the course of several weeks or months should be used administratively and reported as CUP violations to gain and maintain compliance. These violations should also be considered in the context of the multiple changes presented by the COVID-19 pandemic.

### **Occupant Load:**

The threshold to trigger review is one (1). Code Enforcement routinely checks on-sale establishments and did not report occupant load violations during the review period. Due to the Coronavirus pandemic, most establishments were either closed completely or obtained permits for temporary outdoor dining areas during this reporting period.

No citations were issued by Code Enforcement during this reporting period as emphasis was directed to educating various businesses as to how they were impacted by the myriad of Emergency Orders that were issued on a regular basis.

### **Code Enforcement and Fire Prevention:**

We are working with the Los Angeles County Fire Department and have included their business inspection reports in past Tri Annual reviews. Due to Covid-19, the department has suspended their business license inspection program.

### **Code Enforcement/Violation of CUP Conditions:**

Code Enforcement efforts have shifted in response to Covid-19. With the new temporary outdoor dining/retail display program, Code Enforcement has been tasked with processing and verifying these permits, as well as ensuring that the added seating does not exceed County guidelines regarding occupant loads.

The success of their efforts can be seen throughout Hermosa Beach, particularly in the downtown and upper Pier areas. Code Enforcement has also been instrumental in educating businesses regarding proper face coverings and social distancing in these establishments.

Over the 4th of July weekend, our Enforcement team paired with County Health Inspectors to tour the downtown district and ensure that we were following their guidelines. We have established an excellent partnership with this vital department.

Violations that are both a code violation and a CUP violation are only counted once. Code Enforcement issued no citations during this reporting period. Although many businesses received warnings, policy is to request compliance prior to issuing a Citation during a single shift. Code Enforcement considered the following as violations/incidents to highlight for this reporting period:

On May 5, 2020 Barnacles Bar & Grill was closed by the Health Department for 7 days due to serving food and drink to patrons inside the establishment.

Code Enforcement Statistical Data Relating to Business Checks of Alcohol Serving Establishments March 1 to August 31, 2020 is contained in Attachment 6, with the last reporting period report as Attachment 7.

Businesses required to submit food-to-alcohol sales ratio reports per conditions in their CUPs must continue to do so; failure to do so is counted as part of the CUP review. Waterman's, 22 Pier Avenue, and Día de Campo, 1238 Hermosa Avenue, are required to submit quarterly reports, which need not be audited. Standing Room, 1320 Hermosa Avenue, must submit quarterly reports audited by a CPA. All have submitted the required documents.

Based on the "Procedure for Review of On-Sale Alcoholic Beverage Conditional Use Permit" no businesses have reached the "Standard Initiating P.C. Review" based on the "standards that would trigger a referral to the Planning Commission for a CUP review and potentially for a subsequent modification/revocation hearing."

### **General Plan Consistency:**

Evaluation of the City's enforcement and police responses to achieve safety goals is consistent with Goal 5 of the Public Safety Element: High Quality police and fire protection services provided to residents and visitors and the following policies under Goal 5:

- Public Safety 5.1 Crime deterrence. Regularly evaluate the incidence of crime and identify and implement measures to deter crime.
- Public Safety 5.2 High level of response. Achieve optimal utilization of allocated public safety resources and provide desired levels of response, staffing, and protection within the community.
- Public Safety 5.3 Use of technology. Provide and use smart surveillance technology and communication systems to improve crime prevention and inform the community regarding actions to take in case of emergency.
- Public Safety 5.4 Physical design standards. Reduce opportunities for criminal activity through physical design standards and Crime Prevention through Environmental Design principles.
- Public Safety 5.8 Nuisance abatement. Encourage Police Department review of uses which may be characterized historically by high levels of nuisance (noise, nighttime patronage, and/or rates of criminal activity) providing for conditions of control of use to prevent adverse

impacts on adjacent residences, schools, religious facilities, and similar “sensitive” uses. Additionally, Goal 2 of the Governance Element speaks to the importance of having the community, including business partners, be active and engaged in the decision-making process. Staff has found that collaboration with the Pier Plaza establishments to address safety concerns and improve access, lighting, and other aesthetics on the Plaza to be an effective partnership.

**Summary and Recommendations:** The data relating to the Semi-Annual Review criteria is summarized below for specific businesses.

**Process Criteria Statistics for All Businesses (March to August 31, 2020)**

| Criteria  | Summary of All Businesses |
|---|---------------------------|
| Violation of Operating Hours                                      | 0                         |
| ABC Violations (underage serving, violation of hours, etc.)       | 0                         |
| Overcrowding Citation   | 0                         |
| Serious Crime on Premises indicative of Lack of Adequate Security | 0                         |
| Criminal Citation of Staff while Working/on Premises              | 0                         |
| Noise Citation  | 0                         |
| Outdoor Encroachment Permit Violation                             | 0                         |
| Building Code Violation (incl. remodeling without permit)         | 0                         |
| Health Department Violation                                       | 2*                        |
| Sign Ordinance Violation  | 0                         |
| NPDES Violation   | 0                         |
| Violation of any CUP Condition*                                   | 3*                        |

\*Most Code violations are also CUP violations and are not counted twice.

Note: While no citations were issued, Barnacles had at least one violation of the LA County Health orders by allowing patrons to consume alcohol on their property at a time where it was prohibited. Barnacles was also closed by LA County Health for a separate violation of the Public Health Order. Barnacles had other complaints of patrons drinking in front of the business but those violations were not observed by City staff.

In summary, no businesses have reached the threshold for further review by the Planning Commission for this reporting period. In the report submitted to the Planning Commission on October 20, 2020, staff indicated that Barnacles Bar and Grill had three violations which warranted further review. In preparation for this report and meeting, staff conducted a more thorough review of these incidents and determined that there was not enough evidence to consider one of the incidents as a CUP violation.

**Attachments:**

1. Process and Standards, updated 2019
2. Police/ABC Report for this period
3. Police/ABC Report for last period

4. Police Statistics for this period
5. Police Officer Checks for this period
6. Code Enforcement Data for this period
7. Code Enforcement Data for last period

Respectfully Submitted by: Bob Rollins, Building & Code Enforcement Official  
Approved: Ken Robertson, Community Development Director