

Pacific Beach Planning Group

September 24, 2011

To: San Diego City Council Members and Mayor Jerry Sanders
From: John Shannon, Chair, Pacific Beach Planning Group

Subj: Request for establishment of land-use ordinances to regulate alcohol-licensed restaurants and bars in Pacific Beach to improve public safety, quality of life and economic vitality in the community

This request was originally sent to you on March 8, 2011. However, upon advice from the city attorney's office, the Pacific Beach Planning Group (PBPG) rescinded their original vote on this motion because of concerns regarding the noticing of it as an action item on the agenda.

On August 31, 2011, the PBPG held a special meeting devoted to this issue, and after board discussion and considerable public comment, the motion was passed again:

PBPG to request that the City Council and Mayor pursue the recommendations of this report for a CUP (Conditional Use Permit), DAO (Deemed Approved Ordinance), and funding for dedicated police officer for alcohol-licensed restaurants and bars in Pacific Beach. PBPG to work with City Council and Mayor to craft and implement the new policies. Motion passed 10-5-1

Background:

In 2009, the Pacific Beach Planning Group (PBPG) convened a subcommittee, the Alcohol License Review Committee (ALRC) that extensively researched alcohol license policies and issues in Pacific Beach. On June 14, 2010, the ALRC presented its findings to the community in a public presentation and solicited public feedback. Subsequently, the ALRC drafted a full report of its findings, conclusions and recommendations, which is attached (electronically) and is also available at www.pbplanning.org. For your convenience, the report's Executive Summary of Findings is appended to this letter.

Some areas of Pacific Beach are over-concentrated with alcohol licenses and have high crime. For example, the western-central business district census tract has 64 alcohol licenses where only 10 are allowed by state guidelines. Those licenses are held by 44 restaurants, 9 bars and 11 stores. However, some of those restaurants function like bars, which is permissible under ABC regulations. In 2010, this census tract had alcohol crime that was 18 times the city average and general crime that was 5 times the city average. In 2009, Pacific Beach had 591 DUIs - representing 17% of the city's total DUIs in a community with only 4% of the city's population. The state ABC makes the decisions on alcohol licenses and the community has no control, but the community must bear the brunt of the alcohol-related negative impacts. The tremendous police resources expended in Pacific Beach have not been able to resolve these problems.

Five new alcohol licenses have been issued in Pacific Beach over the last 3 years, and at least 9 applications are pending for new and modified licenses. The ABC continues to approve new licenses and license modifications that extend hours of alcohol service, expand serving areas, and allow upgrades from beer and wine to full spirits. This trend for more and expanded alcohol licenses in Pacific Beach will only aggravate the existing high crime and DUI. Other cities facing similar issues have achieved local control through land-use policies that regulate where and how alcohol-licensed businesses can operate.

Ventura adopted policies like the ones the PBPG is now requesting, and the results have been dramatic: a 62% drop in arrests at alcohol establishments, a 42% drop in calls for police service related to alcohol businesses, and a 31% drop in DUI crashes. Under these policies, new alcohol-licensed businesses are required to obtain a CUP in order to operate, and conditions can be placed on the CUP to reduce crime and negative impacts. Existing alcohol-licensed businesses are “grandfathered in” under the DAO, but serious violations can invoke the CUP. All alcohol-licensed businesses pay a reasonable, sliding-scale annual fee to fund a dedicated police officer to monitor and enforce, and to work with operators to improve business practices (Ventura’s fee ranges from \$250 to \$1400).

I hope you will review the attached report and come to understand its immense importance to the community of Pacific Beach. Even though this report focuses on Pacific Beach, all communities will find this comprehensive review of alcohol license policies and issues to be relevant and useful.

I would welcome the opportunity to speak further with you about this report and the PBPG’s request for City Council action and mayoral support for creating these land-use ordinances that are essential to improving public safety, quality of life and economic vitality in the community of Pacific Beach. I look forward to hearing from you at your earliest convenience.

Sincerely,

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Cc:
Jennifer Hill, Director, ABC (San Diego)
Police Chief William Lansdowne
Lt. Chuck Kaye, SDPD Vice
Jan Goldsmith, City Attorney

Alcohol License Policies and Issues in Pacific Beach

A Report from the
Alcohol License Review Committee
A Subcommittee of the Pacific Beach Planning Group
February 23, 2011

Executive Summary of Findings

1. There is rising community concern over the number of alcohol-licensed businesses in Pacific Beach, the trend for more and more restaurants to function like bars, the high alcohol-related and general crime, the high number of DUIs, and other negative impacts to public safety, to the community and to residents' quality of life.
2. There is general agreement over wanting new good restaurants in Pacific Beach to be able to get alcohol licenses and be successful, as long as they remain good restaurants and do not function like bars and create negative impacts. However, under current alcohol license policies, the community has no control over the granting of restaurant alcohol licenses and it cannot prevent restaurants from functioning like bars.
3. Four census tracts in Pacific Beach are over-concentrated with alcohol licenses. The highest over-concentration is in the western-central census tract, which has 64 licenses where only 10 should be allowed (by state regulations based on population). These alcohol licenses comprise 44 restaurants, 9 bars and 11 stores. In 2008, this census tract had alcohol-related crime that was 19 times the city average; and general crime that was 4.5 times the city average. In 2010, the alcohol-related crime was 18 times the city average and the general crime was 5 times the city average.
4. In Pacific Beach, the six census tracts with alcohol licenses all have high alcohol-related crime and most have high general crime. The two census tracts without alcohol licenses have very low crime.
5. A significant body of research supports an association between the number and density of businesses that sell/serve alcohol within a community and the incidence and type of crime in that community. These studies indicate the more alcohol licenses you have, whether they are restaurants, bars or stores, the more crime you have.
6. ABC makes the decision to grant new alcohol licenses and relax license conditions - and the community has no control. For example:
 - a. If a restaurant gets a new license, with conditions to keep it from functioning like a bar, these conditions can subsequently be removed or relaxed with no public notice and no local control.
 - b. Many existing restaurant licenses have no conditions, and ABC regulations allow them to function like bars and serve primarily alcohol until 2:00 am every night.

- c. Licenses can be freely sold or transferred to different operators with different business models. This means that a license issued to a true restaurant, can be sold to a new owner who can choose to operate the restaurant like a bar.
7. Under current alcohol license policies, cities do have the ability to refuse new bar and store licenses in over-concentrated, high crime locations. But ABC is the sole decision maker for everything else, such as, all new restaurants; new bars and stores in under-concentrated areas; and all modifications to existing licenses.
8. Current alcohol license policies allow: 1) communities to become over-concentrated with alcohol-licenses, 2) restaurants to function like bars; and 3) licenses to be modified in ways that increase negative impacts. There is no limit to the number of alcohol licenses that can be granted, even in areas of high crime and over-concentration. Current alcohol license policies do not protect communities from negative impacts such as high crime and DUI and damage to the business district and to residents' quality of life.
9. Even when a new license is protested by the police and denied by the local ABC, it may still be issued. Within the last year, an ABC judge granted a new restaurant alcohol license in Pacific Beach's most over-concentrated and high crime area, over the objections of both the local ABC and SDPD.
10. Pacific Beach is fortunate to have many good restaurants that are true assets to the community and do not cause negative impacts. However, over the last 20 years, some good restaurants in Pacific Beach have been replaced by restaurants that function like bars (e.g., serve mainly alcohol from 10 pm to 2 am, offer beer pong, have cheap drink specials, etc.). In addition, bars and restaurants have been continually allowed to modify their operations so that they serve more and "harder" alcohol, to more people, later into the night. This evolution of alcohol license operations has led to high crime and high DUI (about 600 DUIs per year).
11. ABC and SDPD enforcement alone cannot solve these problems. Despite tremendous SDPD resources being spent in Pacific Beach, the crime and DUI remain unacceptably high. ABC does not have sufficient resources or regulations to stop these negative impacts.
12. Current alcohol license policies are deficient, do not provide adequate local control, and will continue to result in additional new licenses and condition modifications that are likely to increase crime and other negative impacts in Pacific Beach.
13. The mission statement of the Alcohol License Review Committee (ALRC) cannot be fulfilled under current alcohol license policies because:
 - a. The ALRC cannot "support new or transferred alcohol licenses with appropriate conditions for desirable businesses" because it cannot be assured that these conditions will actually be imposed or will stay in place, due to the ABC having sole authority over the imposition and modification of license conditions.

- b. The ALRC cannot “review all proposed modifications to conditions on existing alcohol licenses in Pacific Beach and make recommendations to minimize negative impacts” because there is little or no public notice of the applications for such modifications and because ABC has sole authority over condition modifications.
14. Reductions in crime and subsequent improvement in public perception of Pacific Beach as a safe place to live and visit will benefit both residents and businesses. Therefore, it is in the best interest of all facets of the community to work together to achieve solutions to these problems.
 15. Other communities, such as Fullerton, Oxnard, Ventura and Vallejo, have faced these same issues and have successfully addressed them through a land-use policy - a conditional use permit (CUP) - that establishes local control over where and how new alcohol-licensed businesses can operate. For example, a CUP allows conditions to be imposed that prevent new restaurants from acting like bars and that ensure the best business practices to mitigate negative impacts. Existing alcohol-licensed businesses are “grandfathered in” with a deemed-approved ordinance (DAO), but if they commit serious violations they may be required to come under the CUP.
 16. Ventura policies include a CUP, a DAO, and also a dedicated police officer to monitor, enforce and work with alcohol-licensed businesses to ensure best business practices. This officer is funded with a sliding-scale fee paid by these businesses. As a result of these policies, Ventura has experienced a 62% drop in arrests at alcohol businesses; a 42% drop in calls for service related to alcohol businesses; and a 31% drop in DUI related crashes.
 17. Local control of alcohol licenses and improved enforcement at alcohol-licensed businesses will be necessary to reduce crime and DUI in Pacific Beach. Local control will allow new restaurants to get licenses and ensure they operate with conditions that will minimize negative impacts. These objectives can be accomplished by the city creating new ordinances similar to Ventura’s (CUP, DAO and funding for a dedicated police officer) and applying them to the Pacific Beach over-lay zone. Community feedback at a community presentation of this report was overwhelmingly in favor of pursuing these new policies. These new ordinances would need to be approved by the San Diego City Council.