



## Legislation Text

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**File #:** 20-0119, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Carrie Tai, Community Development Director

Ryan Heise, Building Official

Angelica Ochoa, Associate Planner

**SUBJECT:**

Conduct Public Hearing to Consider the Following Entitlements for the 900 Club: Extending Operating Hours on Thursdays for One Hour; Increasing the Allowable Annual Number of Special Events to 24; and Deleting Early "Last Call" (Community Development Director Tai).

- a) **RESCIND RESOLUTION NO. 18-0075**
- b) **CONDUCT PUBLIC HEARING**
- c) **ADOPT RESOLUTION NO. 20-0020, TO: EXTEND OPERATING HOURS ON THURSDAYS FOR ONE HOUR; INCREASE THE ALLOWABLE ANNUAL NUMBER OF SPECIAL EVENTS TO 24; DELETE EARLY "LAST CALL"; AND MAKE A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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**RECOMMENDATION:**

Staff recommends that the City Council rescind Resolution No. 18-0075, conduct public hearing and adopt Resolution No. 20-0020.

**FISCAL IMPLICATIONS:**

There are no direct fiscal implications associated with the recommended action.

**BACKGROUND:**

On June 5, 2018, the Manhattan Beach City Council adopted Resolution No. 18-0075, approving an amendment to a use permit ("Amendment") issued to the 900 Club and Downstairs Bar ("Applicant") located at 900 Manhattan Avenue. The Amendment granted, subject to conditions, the following use entitlements: (1) an additional one hour of service on Thursday nights for the upstairs bar; (2) an increase in the number of special events from 18 to 24 annually. In addition, the Council removed an early "last call" condition. The approval was subject to ten conditions, include submission of floor plans and a one-year review for the purpose of reviewing the subject Use Permit Amendment for compliance with conditions.

In 2019, the City Council conducted its one year review of the entitlements conferred by Resolution No. 18-0075. Don McPherson and his attorney, Beverly Grossman Palmer, Esq., submitted

correspondence to the City in opposition to the Club at that time. The Council found that: Applicant demonstrated substantial compliance with the conditions of approval; and there was no substantial evidence presented that the additional entitlements conferred in 2018--the additional hour of operation, six additional special events per year, and the later "last call"--adversely impacted the neighborhood. The Council imposed a number of conditions at that time, including a modification to condition 3 of Resolution No. 18-0075 to decrease the prior notice of special events from seven days to three days. No lawsuit was filed to challenge the Council's decision, and the statute of limitations to file such a lawsuit has expired.

On January 28, 2020, the Los Angeles County Superior Court (Case No. BS174550) ruled: the approval of the entitlements conferred by Resolution No. 18-0075 must be set aside; and the City must evaluate the applicant's submittal of floor plans for occupancy and life safety issues prior to taking further action on the request. The court ruled the City is not required to consider any additional evidence or testimony related to any other issues, including Applicant's compliance with the City's Noise Ordinance. The court also ruled that the Council's decision to: (1) grant an additional one hour of service on Thursday nights for the upstairs bar; (2) increase in the number of special events from 18 to 24 annually; and (3) removal of an early "last call" condition was supported by substantial evidence.

#### **DISCUSSION:**

Applicant submitted floor plans (Attachment 3) for occupancy and life safety issues, which have been reviewed and approved by the Manhattan Beach Building Official and the Manhattan Beach Fire Marshal. Specifically, the occupant load indicated on the plans has been approved by the Fire Marshal and Building Official. With respect to life safety issues, the floor plan provides adequate egress. Accordingly, staff recommends that, after reviewing the floor plans, the Council adopt Resolution No. 20-0020, approving the floor plans and approving the entitlements, subject to nine conditions. For the most part, the conditions are identical to the conditions set forth in Resolution No. 18-0075, with the following exceptions:

- Condition 3 (the condition increasing the number of yearly special events to 24) has been modified to reflect the reduction in the number of days required to notify the City and nearby residents of entertainment and special events that the City Council authorized in 2019 in connection with the one year review.
- Condition 4 (the condition that required the submittal of floor plans) has been modified to reflect Applicant has submitted the floor plans, and the Building Official and Fire Marshal have approved the plans.
- Condition 10 (the condition that required a one year review) has been deleted, in that the City Council conducted that one year review in 2019 and found that Applicant was in substantial compliance with the conditions set forth in Resolution No. 18-0075.

#### **PUBLIC OUTREACH:**

A public notice was published in the Beach Reporter on February 6, 2020, and mailed to property owners within 500 feet on February 7, 2020. In addition, courtesy copies of the public notice were sent to Donald McPherson and his attorney of record, and the 900 Club's attorney of record. Mr. McPherson has acknowledged receipt (see, Attachment 4).

#### **LEGAL REVIEW:**

The City Attorney has reviewed this report and determined that no additional legal analysis is

necessary.

**ATTACHMENTS:**

1. Resolution No. 20-0020
2. Resolution No. 18-0075 (Adopted June 5, 2018)
3. Floor Plans for Occupancy and Life Safety Issues
4. Email from Coastal Defenders