



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION
FROM: Seimone Jurjis, Assistant City Manager/Community Development Director
SUBJECT: Report of actions taken by the Community Development Director for the week ending May 10, 2024.

COMMUNITY DEVELOPMENT DIRECTOR OR ZONING ADMINISTRATOR ACTIONS (Non-Hearing Items)

- Item 1: Our Lady Queen of Angels Security Fence Staff Approval (PA2024-0048)
Site Address: 2046 Mar Vista Drive
- | | |
|------------------|--------------------|
| Action: Approved | Council District 4 |
|------------------|--------------------|
- Item 2: Muldoon's Irish Pub Staff Approval for Substantial Conformance (PA2024-0031)
Site Address: 202 Newport Center Drive
- | | |
|------------------|--------------------|
| Action: Approved | Council District 5 |
|------------------|--------------------|

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Wendy Joe, Civilian Investigator, NBPD (*Telecom - Massage – ABC License*)
Mark Short, Police Sergeant, NBPD (*Massage – ABC License*)



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

Subject: Our Lady Queen of Angels Security Fence (PA2024-0048)
▪ Staff Approval

Site Location 2046 Mar Vista Drive

Applicant Matthew Frlekin, Roman Catholic Diocese of Orange

Legal Description Parcel A of Resubdivision No. 173

On **May 9, 2024**, the Community Development Director approved a staff approval authorizing Matthew Frlekin, of the Roman Catholic Diocese of Orange (Applicant), to install an eight-foot-tall wrought iron security fence at Our Lady Queen of Angels Church campus located on Parcel A of Resubdivision No. 173 (Property). The proposed wrought iron fence would fill in the existing gaps in the fencing along Domingo Way to enhance security of the church and school. The existing onsite 6-foot-high chain link fences would remain. The Community Development Director finds the proposed wrought iron fencing to be in substantial conformance with the previously approved Use Permit No. UP2005-020.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** PI (Private Institutions)
- **Zoning District:** PI (Private Institutions)

BACKGROUND

In 1963, the Planning Commission approved Use Permit No. UP991, which authorized the construction and operation of a church and school known as Our Lady Queen of Angels.

On November 14, 2006, the Planning Commission approved Use Permit No. UP2005-020, authorizing the expansion of the church and school located at 2100 and 2046 Mar Vista Drive. The approval included the construction of a 1,170-seat sanctuary, additional classrooms for the school, and a 9,450 square foot gymnasium. This use permit expanded upon the prior use permit (UP991) and included approval of a Traffic Study and Mitigated Negative Declaration (MND) for California Environmental Quality Act (CEQA) compliance. Neither UP991 nor UP2005-020 identify the required setbacks for the property nor include conditions of approval regulating permanent fencing.

PROPOSED CHANGES

The applicant has requested to install an 8-foot-tall wrought iron security fence and associated pedestrian and vehicle access gates. Existing fencing along Mar Vista Drive and Domingo Drive is either chain-link or nonexistent. The chain link fencing along the western portion of Domingo Drive is approximately 6 feet high, however, the fence appears higher due to the existing hedges that are intertwined with and on top of the fence. With the existing hedges, the fence appears to be approximately 6 to 8 feet high. The chain link fencing and hedges are proposed to remain, and the wrought iron fencing will be added to the unfenced portions of the perimeter. A vicinity map (Attachment No. CD 1) and project plans (Attachment No. CD 3) identify the location of the site and the proposed location of the wrought iron fence.

No operational changes are proposed in conjunction the Applicant's request to install the fencing. Any future changes or improvements to the church campus will require further review by City staff and may require additional entitlements and/or building permits.

FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing and waive the requirement for a new use permit application. In this case, the Community Development Director has determined that the proposed fencing is in substantial conformance with UP2005-020 because the following:

Finding:

- A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. The Property is located in the Private Institutions (PI) Zoning District, which is intended to provide for areas appropriate for privately owned facilities that serve the public, including places for assembly/meeting facilities (e.g., religious assembly), congregate care homes, cultural institutions, health care facilities, marinas, museums, private schools, yacht clubs, and comparable facilities. Assembly/meeting facilities and private schools are listed examples of allowed uses within the PI Zoning District with approval of a use permit.
2. Pursuant to Table 2-15 of Section 20.26.030 (Special Purpose Zoning Districts General Development Standards) of the NBMC, setbacks in the PI Zoning District are defined by the applicable use permit, and fencing requirements are regulated by Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls). The existing use permit, UP2005-020, does not define the setbacks for the property.

Finding:

- B. *Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Fact in Support of Finding:

1. The Planning Commission approved a Mitigated Negative Declaration (MND) that evaluated the environmental impacts of the proposed expansion authorized under UP2005-020. The MND analyzed the construction of the church, school, administrative offices, rectory, associated parking, and its potential impact on geologic hazards, flooding, ground water, noise, air resources, vegetation and animal life, traffic, and public recreational facilities, etc. The MND concluded that the project would not have a significant effect on the environment with the incorporation of mitigation measures.
2. Proposed physical changes to the property include the installation of wrought-iron fencing and associated pedestrian and vehicle gates. Since there is no change in use of the school, there is no sensitive habitat onsite, and the physical improvements are negligible, there are no features of the project that can potentially affect the environment. The project does not conflict with any of the mitigation measures in the Mitigation Monitoring and Reporting Program supporting the Mitigated Negative Declaration adopted with Use Permit 991.

Finding:

- C. *Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Fact in Support of Finding:

1. No setbacks that would limit the height of fences, hedges, or walls were identified or conditioned within UP2005-020. Furthermore, fences, hedges, and walls were not features that were specifically conditioned or addressed by UP2005-020. Therefore, there are no proposed changes that would involve a feature of the project that was specifically addressed or was a condition of approval.

Finding:

- D. *Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed installation of wrought iron fencing would not impact existing operations on site. No additional improvements are proposed that would expand the existing use.

2. Fact A.2 is hereby incorporated as reference.
3. Fact C.1 is hereby incorporated as reference.

CONDITIONS

Planning

1. The development shall be in substantial conformance with the approved site plan and floor plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The maximum height of the proposed fencing shall not exceed 8 feet from existing grade.
3. All applicable conditions of approval for Use Permit No. UP2005-020 shall remain in effect.
4. The Community Development Director may add to or modify conditions to this staff approval or revoke this staff approval upon determination that the operations, which is the subject of this staff approval, causes injury, or is detrimental to the public health, safety, peace, or general welfare of the community or if the property is operated or maintained so as to constitute a public nuisance.
5. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the fencing at Our Lady Queen of Angels School including, but not limited to, a staff approval under PA2024-0048. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department

6. Provide a minimum of two man gates along the proposed new fencing on Domingo Drive for emergency response to the classroom's emergency egress windows.

7. The proposed sliding vehicular gate shall not obstruct the adjacent pedestrian gate at any time.
8. All vehicular gates shall be secured with a Knox pad lock for emergency response.
9. All pedestrian gates shall be secured with a Knox pad lock or provide a key for all gates to be installed into the Knox key box.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949-644-3235.

Prepared by:



Daniel Kopshever, Assistant Planner

Approved by:



Seimone Jurjis

Assistant City Manager/Community
Development Department Director

Attachments: CD 1 Vicinity Map
CD 2 Applicant's Project Description
CD 3 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Subject Property



Subject Property

Staff Approval
PA2024-0048
2046 Mar Vista Drive

Attachment No. CD 2

Applicant's Project Description

We are proposing the installation of an 8-foot fence around the perimeter of our school and parish grounds along with extending current gate fencing at points of entry. This project aims to enhance the safety, security, and overall well-being of our students, staff, and visitors. (parents) the proposed fence will be eventually constructed around the perimeter of the school grounds, encompassing the playground area, entrances, and other vulnerable points of access. It will be aesthetically pleasing to complement the surrounding environment. The primary objective of this project is to ensure the safety of our students and parishioners. (staff) a fenced perimeter acts as a physical barrier, preventing unauthorized access to the school grounds and reducing the risk of incidents such as trespassing or abduction. Additionally, it creates a controlled access point, enabling school staff to monitor entries and exits more effectively, thus mitigating potential threats to the school community. The most immediate concern is the completely exposed portion of the school building along the Domingo Street side of the school. Anyone can walk directly up to the building from the street. This is the area that we are proposing to protect with the 8-foot fence. We also note that immediately across the street from Queen of Angels school is Corona Del Mar Jr/High school a new fence was built around the perimeter of this school less than two years ago and is of an eight-foot height. We believe we should be given the same option to protect our students and faculty. Thank you for seriously considering our request.

Matthew Frlekin

Construction Project Coordinator Cell: (714) 747-6515 E-mail:

mfrlekin@rcbo.org



**ROMAN CATHOLIC
DIOCESE of ORANGE**



**Our Lady Queen of Angels
Catholic Church**
NEWPORT BEACH, CALIFORNIA

Fr. Steve Sallot | Pastor

Our Lady Queen of Angels Church

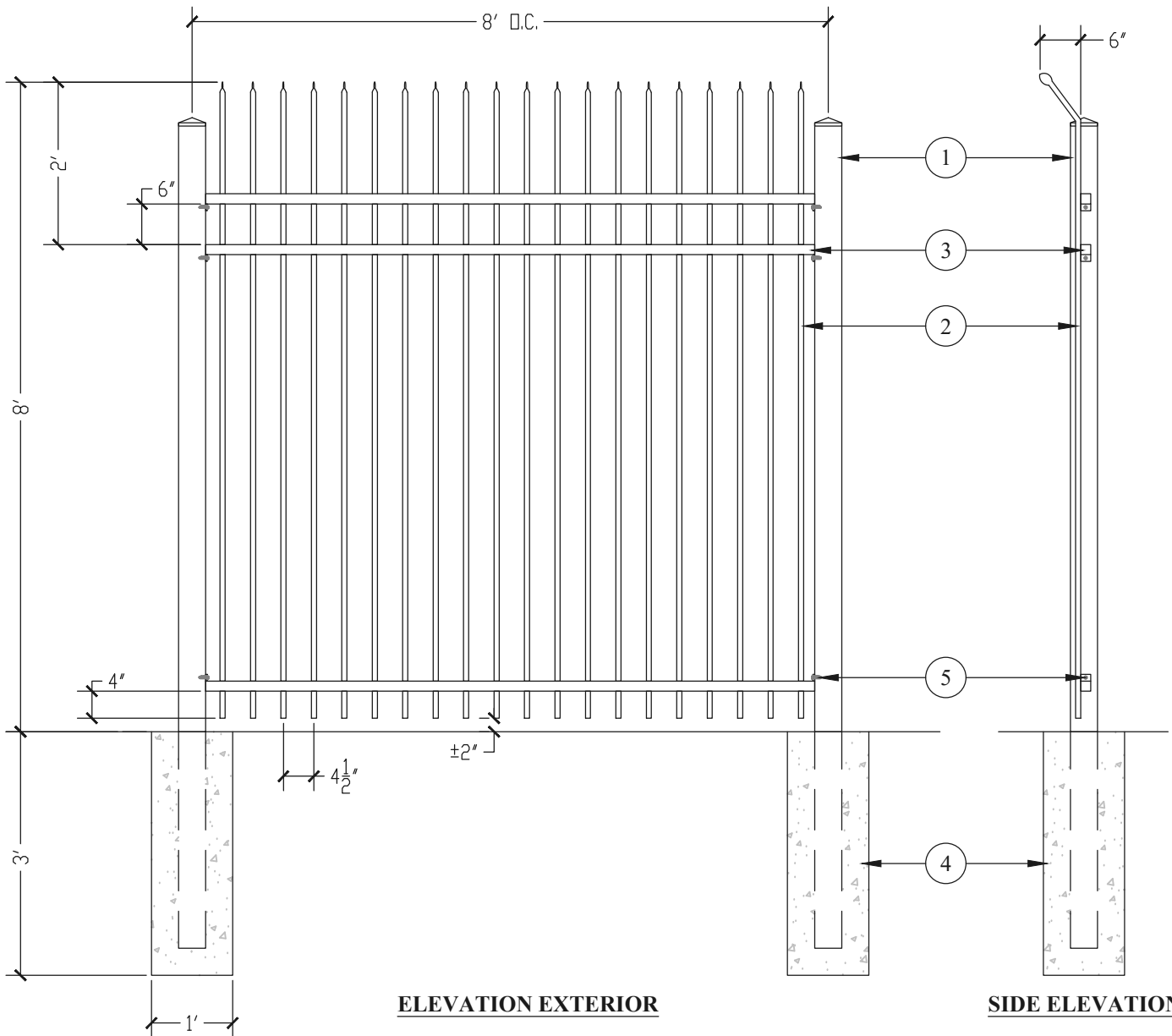
[2046 Mar Vista Drive, Newport Beach, CA 92660](https://www.ourladyqueenofangels.org)

[E \[ssallot@olqaparish.org\]\(mailto:ssallot@olqaparish.org\)](mailto:ssallot@olqaparish.org)

T (949) 219 1407

Attachment No. CD 3

Project Plans



LEDGER

1. 4" SQ. X 11 GA. POST W/ PRESSED STEEL CAP.
2. 3/4" SQ. 16 GA. PICKETS W/ CURVED TOP AND PRESSED POINT
3. 1/2" SQ. X 14 GA. RAILS
4. 12" X 36" CONCRETE FOOTING (2500PSI)
5. SLIDER BRACKET W/ TAMPER PROOF SCREWS

NOTE:

- A. PICKETS TO BE FACE WELDED TO RAILS
- B. ALL STEEL TO BE PRE-GALVANIZED AND POWDER COATED BLACK

SCALE: NTS UNLESS NOTED

YEAR 2023 O.C.

DETAIL NO. 001

LICENSE NO. A(1)

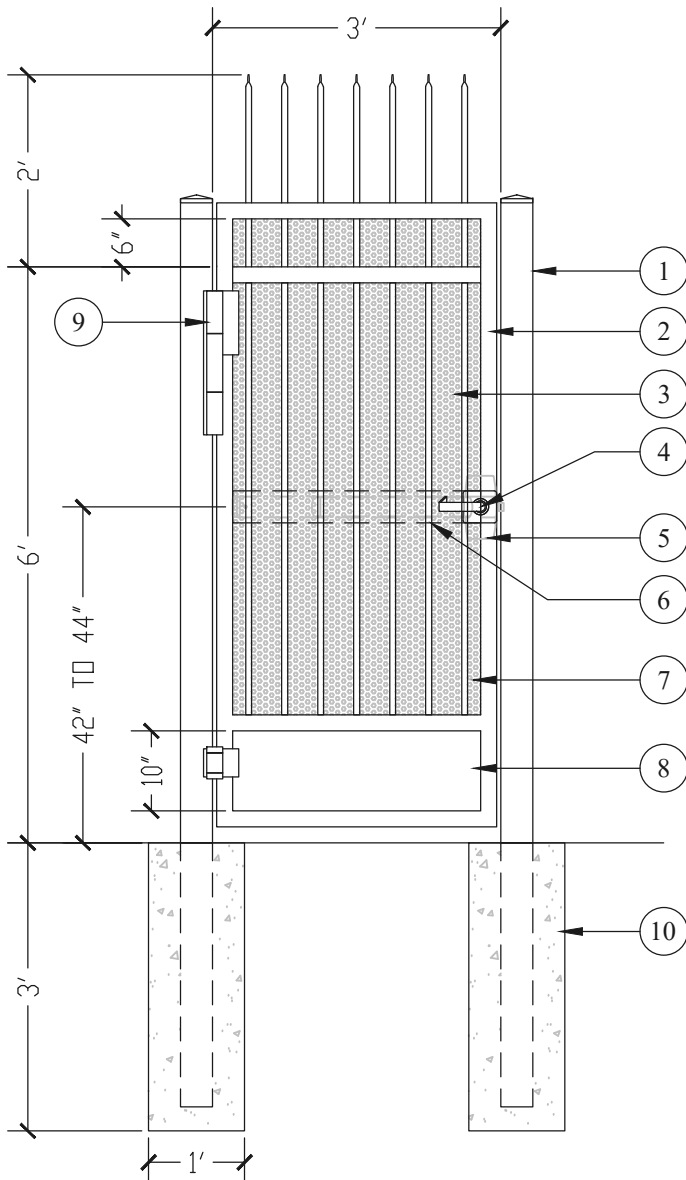
OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

TUBULAR STEEL SECURITY FENCE

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK





LEDGER

1. 4" SQ. X 11 GA. POST W/ PRESS CAP
2. 2" SQ. X 14 GA. GATE FRAME
3. 3/4" SQ. X 16 GA. PICKETS @ 4 1/2" O.C.
4. LEVER HANDLE
5. VON DUPRIN 99 PANIC BAR (SATIN CHROME)
6. 1/4" X 4" FLAT BAR WELDED TO BACK SIDE
7. 3/32" DIA. HOLE PERFORATED METAL MESH 24 GA.
8. 1/4" STEEL KICK PLATE WELDED BACK OF FRAME
9. LOCINOX MAMMOTH HINGES (GRAY)
10. CONCRETE FOOTING (2500 PSI)

NOTE:

- A. ALL STEEL TO BE PRE-GALVANIZED, AND POWDER COATED BLACK

SCALE: NTS UNLESS NOTED

YEAR 2023 O.C.

DETAIL NO. 002

LICENSE NO. A(2)

OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

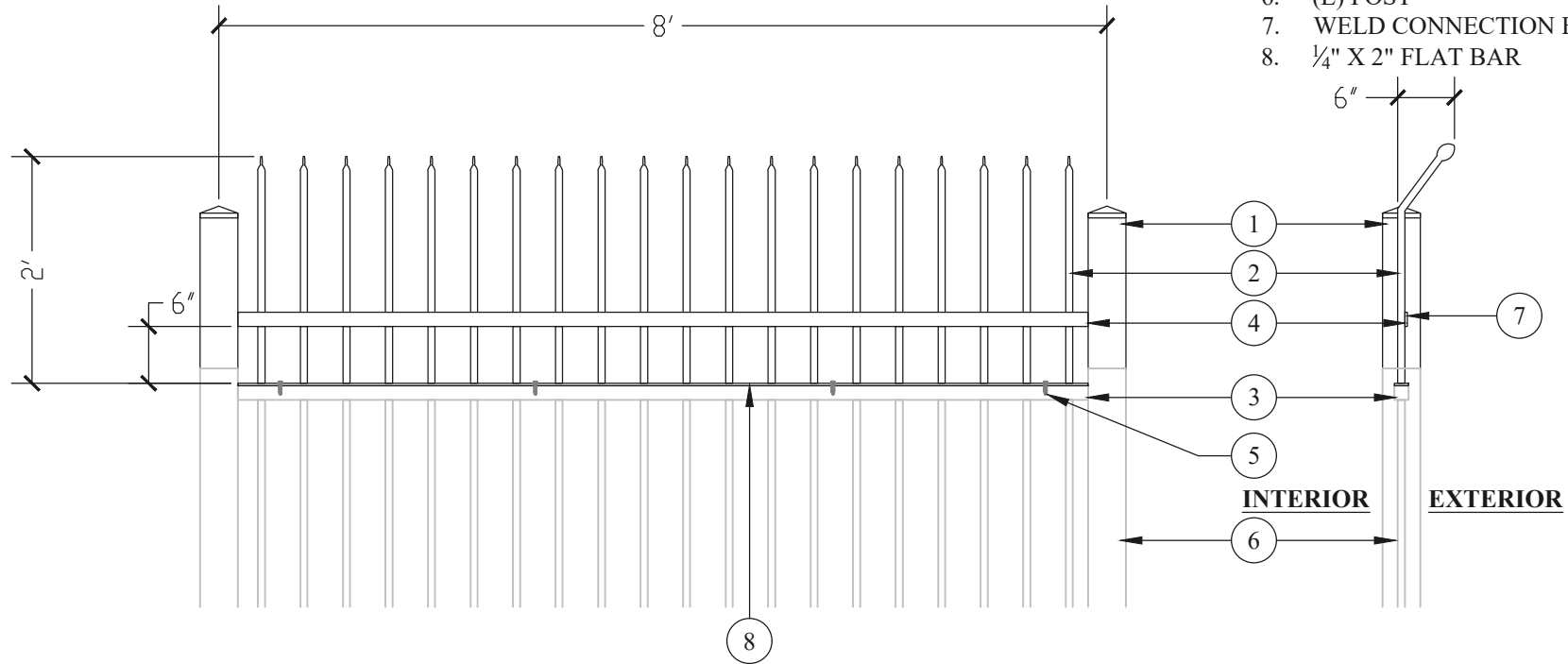
**TUBULAR STEEL
PEDESTRIAN GATE**

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK



LEDGER

1. (N) EXTEND POST
2. 3/4" SQ. 16 GA. PICKETS W/ CURVED TOP AND PRESSED POINT
3. (E) 1 1/2" SQ. X 14 GA. RAILS
4. 1/4" X 1 1/2" FLAT BAR
5. TAMPER PROOF TEK SCREW (4 PER PANEL)
6. (E) POST
7. WELD CONNECTION EA. SIDE
8. 1/4" X 2" FLAT BAR



ELEVATION (EXTERIOR)

NOTE: EXTENSIONS PAINTED WHITE OR BLACK DEPENDING ON THE AREA

SCALE: NTS UNLESS NOTED

YEAR 2023 O.C.

DETAIL NO. 003

LICENSE NO. A(3)

OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

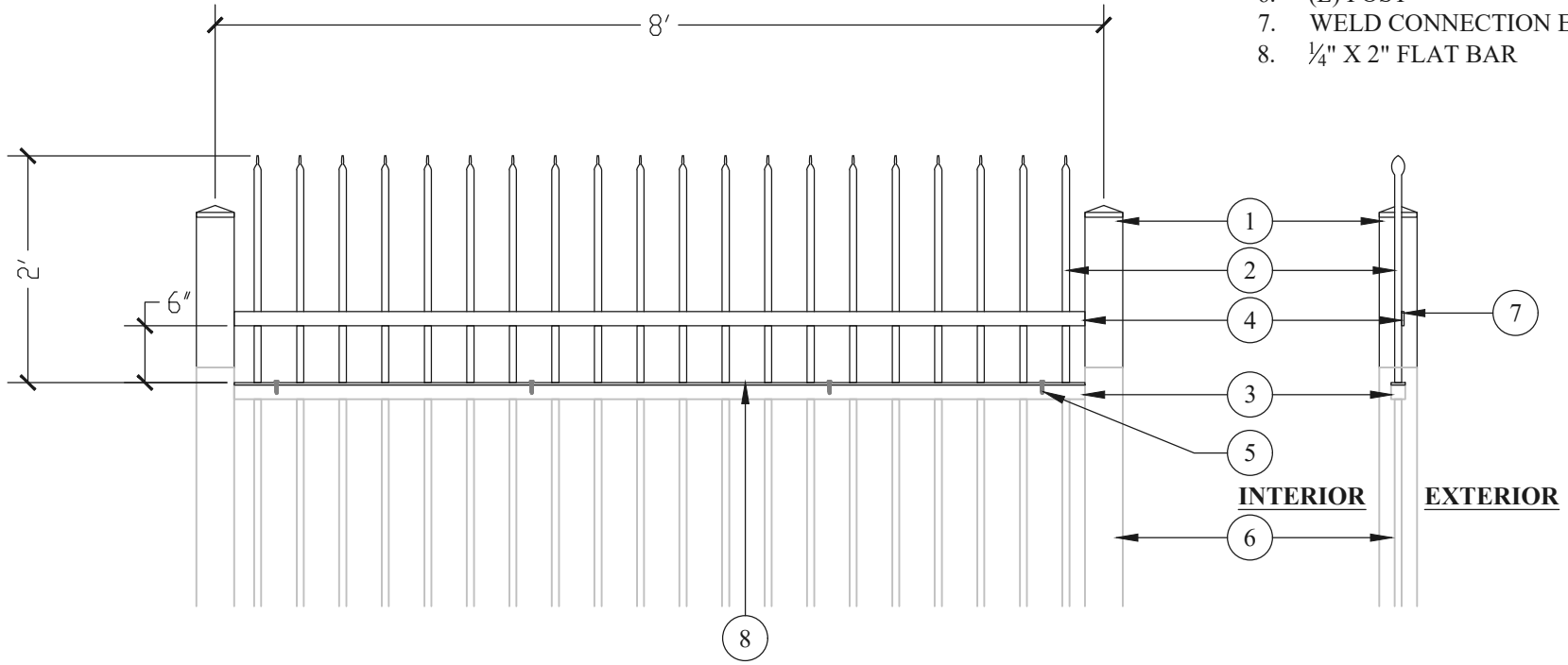
CURVED FENCE
EXTENSION

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK



LEDGER

1. (N) EXTEND POST
2. 3/4" SQ. 16 GA. PICKETS W/ PRESSED POINT
3. (E) 1 1/2" SQ. X 14 GA. RAILS
4. 1/4" X 1 1/2" FLAT BAR
5. TAMPER PROOF TEK SCREW (4 PER PANEL)
6. (E) POST
7. WELD CONNECTION EA. SIDE
8. 1/4" X 2" FLAT BAR



ELEVATION (EXTERIOR)

NOTE: EXTENSIONS PAINTED WHITE OR BLACK DEPENDING ON THE AREA

SCALE: NTS UNLESS NOTED

YEAR 2023 O.C.

DETAIL NO. 004

LICENSE NO. A(4)

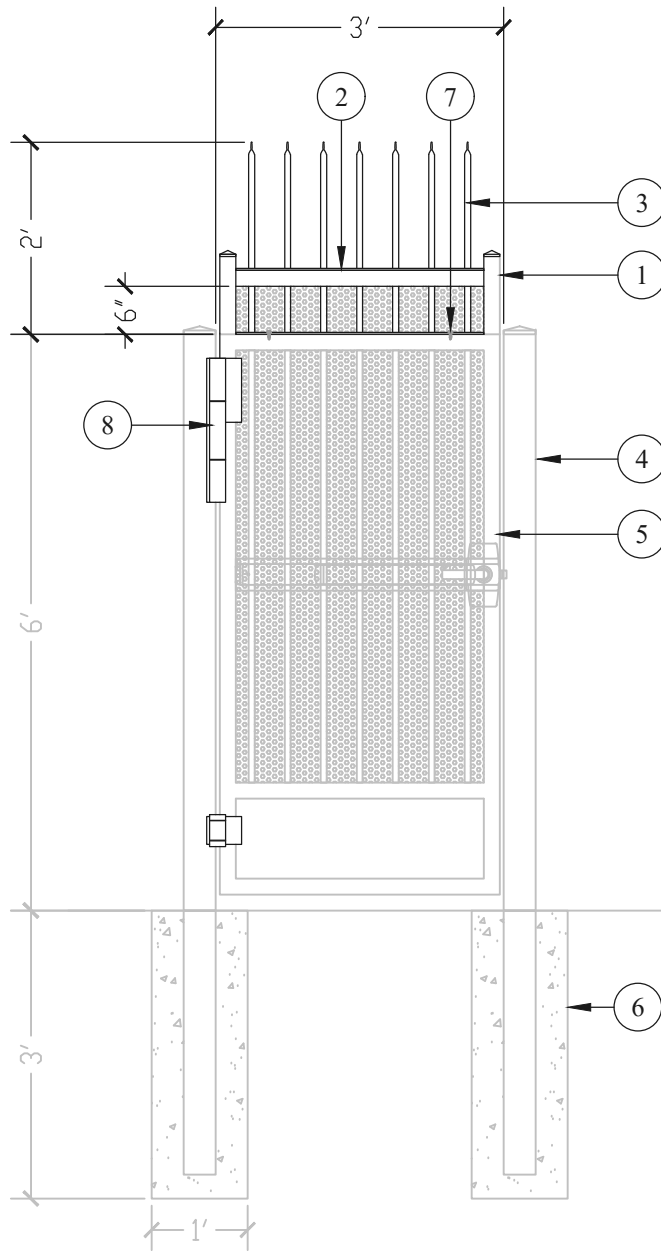
OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

STRAIGHT FENCE
EXTENSION

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK





LEDGER

1. EXTEND GATE TUBE STEEL UPRIGHT
2. 1/4" X 1 1/2" FLAT BAR WELD TO UPRIGHT
3. 3/4" SQ. X 16 GA. PICKET W/ CURVED TOP AND PRESSED POINT
4. EXISTING POST
5. EXISTING GATE
6. EXISTING FOOTING
7. 1/4" X 2" FLAT BAR W/ TEX SCREW TO FRAME (3 PER BAY)
8. REPLACE EXISTING HINGES W/ LOCINOX MAMMOTH HINGES (GRAY)

NOTE:

- A. VERIFY DIMENSION IN FIELD

SCALE: NTS UNLESS NOTED

YEAR 2023 O.C.

DETAIL NO. 005

LICENSE NO. A(5)

OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

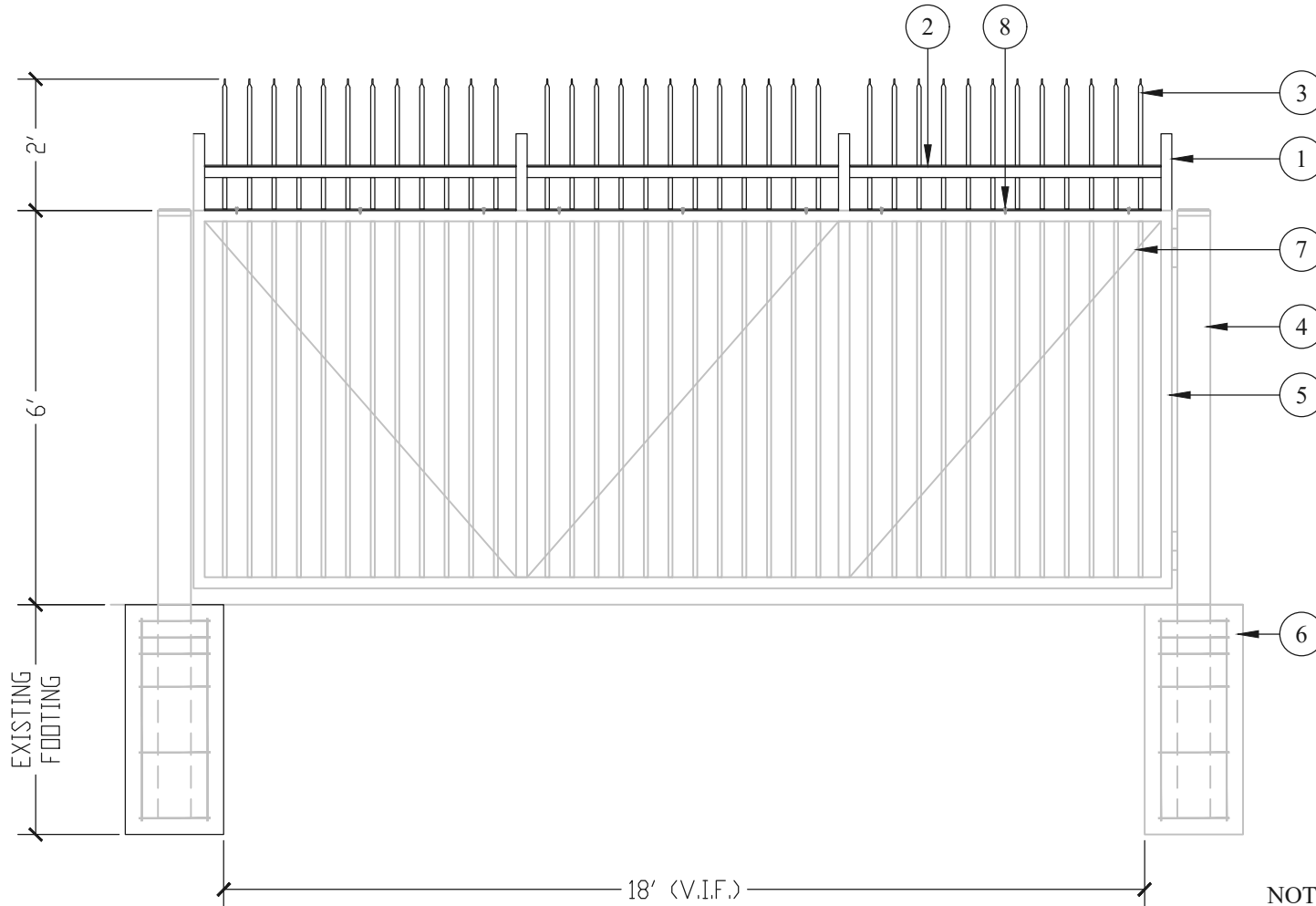
**PEDESTRIAN GATE
MODIFICATIONS**

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
SAKERSFIELD
SANTA PAULA
FALLBROOK



LEDGER

1. NEW 2" SQ. TUBE STEEL UPRIGHT
2. 1/4" X 1 1/2" FLAT BAR WELD TO UPRIGHT
3. 3/4" SQ. X 16 GA. PICKET W/ CURVED TOP AND PRESSED POINT
4. EXISTING POST
5. EXISTING GATE
6. EXISTING FOOTING
7. EXISTING TRUSS
8. 1/4" X 2" FLAT BAR W/ TEX SCREW TO FRAME (3 PER BAY)



NOTE:
A. VERIFY DIMENSION IN FIELD

SCALE: NTS UNLESS NOTED

YEAR 2023 O.C.

DETAIL NO. 006

LICENSE NO. A(6)

OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

**VEHICULAR SWINGS
GATE MODIFICATIONS**

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK

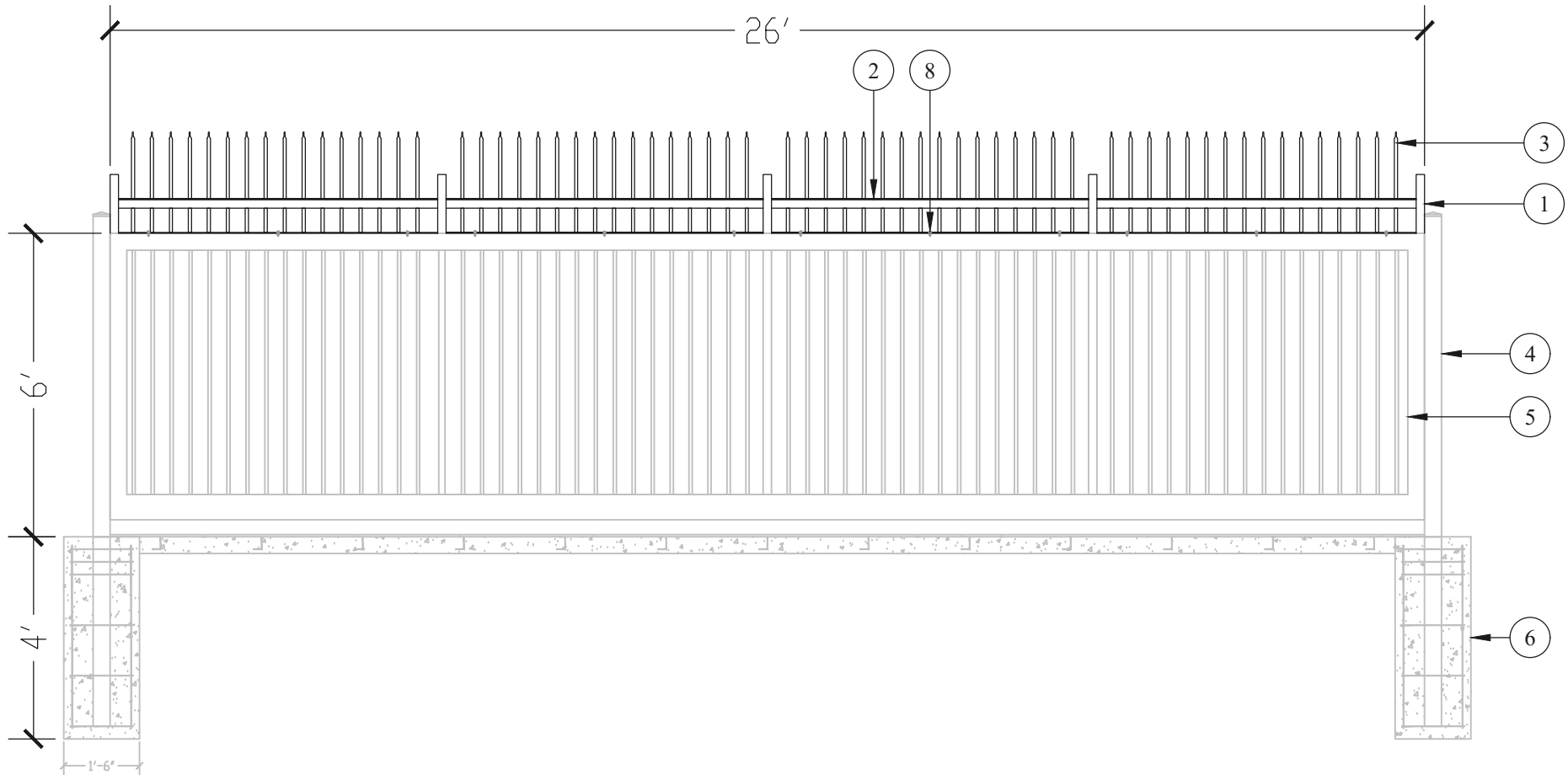


NOTE:

A. VERIFY DIMENSION IN FIELD

LEDGER

1. NEW 2" SQ. TUBE STEEL UPRIGHT
2. 1/4" X 1 1/2" FLAT BAR WELD TO UPRIGHT
3. 3/4" SQ. X 16 GA. PICKET W/ CURVED TOP AND PRESSED POINT
4. EXISTING POST
5. EXISTING GATE
6. EXISTING FOOTING
7. 1/4" X 2" FLAT BAR W/ TEX SCREW TO FRAME (3 PER BAY)



SCALE: NTS UNLESS NOTED

YEAR
2023 O.C.

DETAIL NO.
007

LICENSE NO.
A(7)

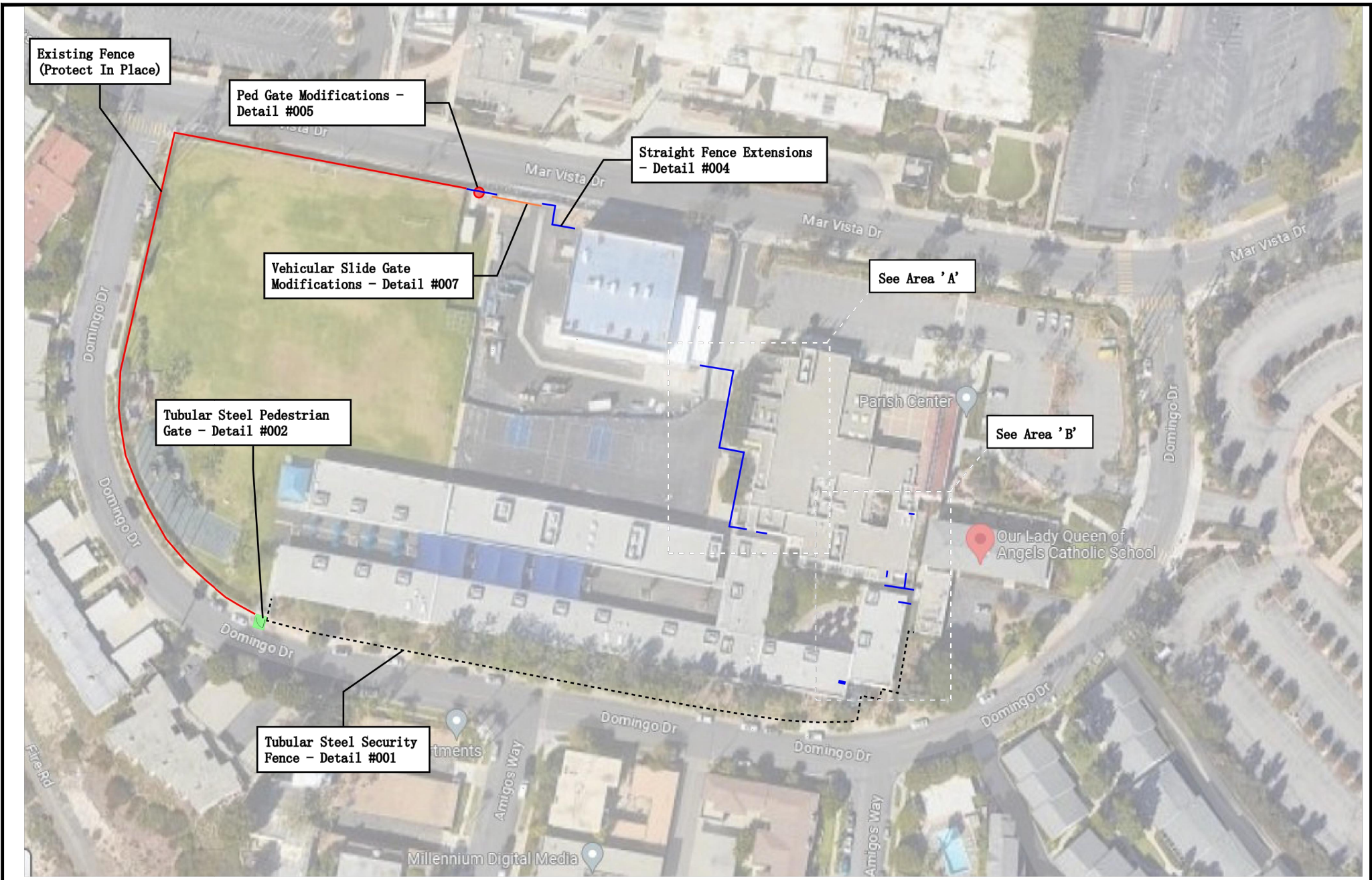
OUR LADY QUEEN OF ANGELS

NEWPORT BEACH

**VEHICULAR SLIDE
GATE MODIFICATIONS**

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK



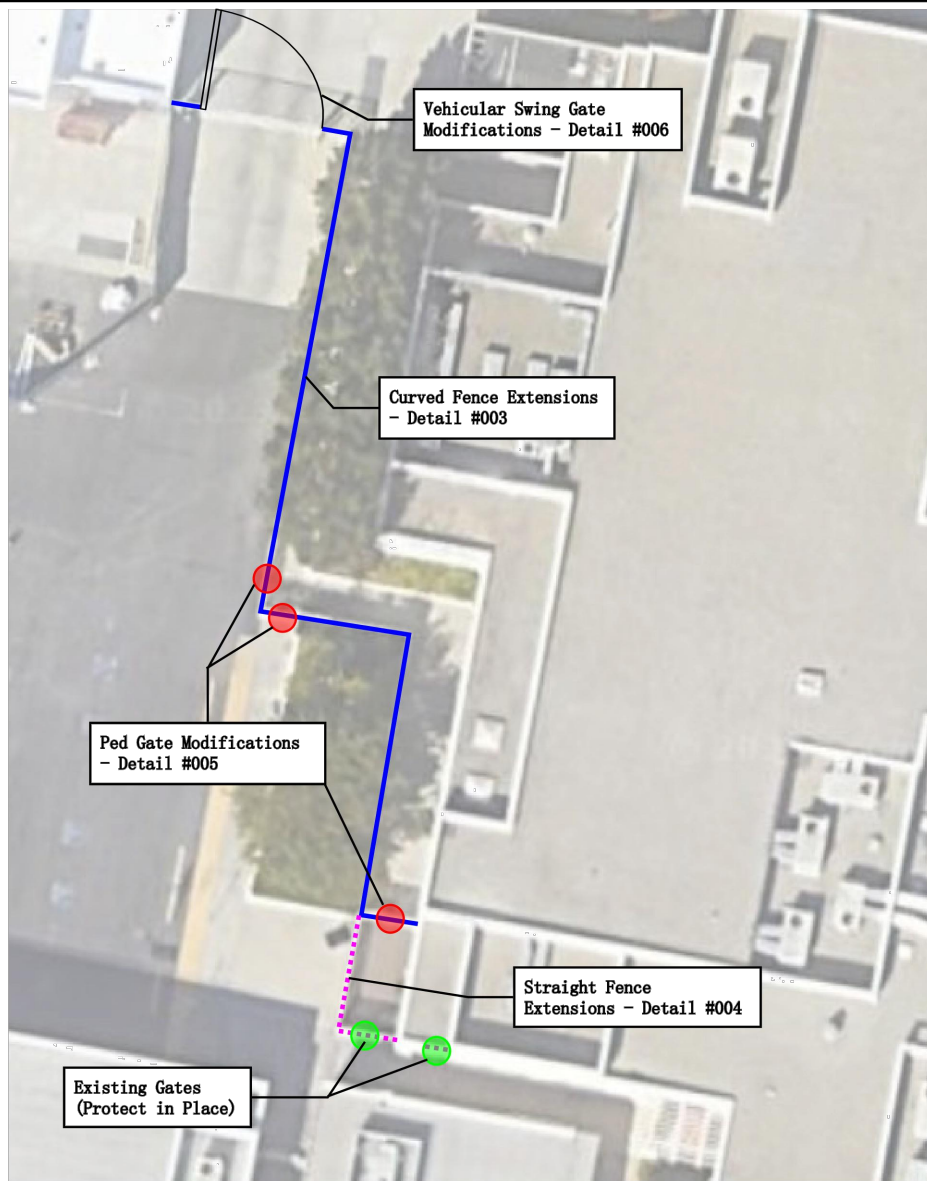


SCALE: NTS UNLESS NOTED
YEAR 2023 O.C.
DETAIL NO. 008
LICENSE NO. A(8)

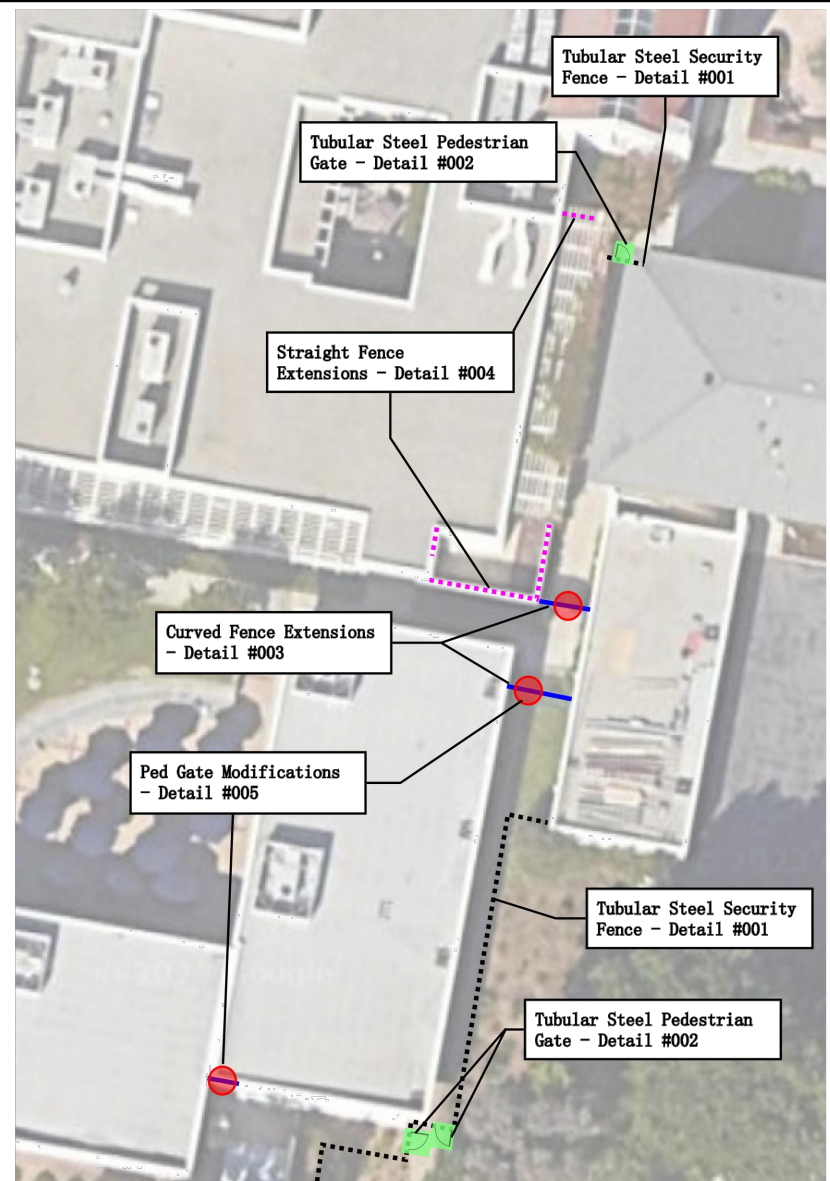
OUR LADY QUEEN OF ANGELS	
NEWPORT BEACH	SITE PLAN

LOCATION:
 ANAHEIM
 RIVERSIDE
 FRESNO
 PALMDALE
 MANTECA
 SACRAMENTO
 BAKERSFIELD
 SANTA PAULA
 FALLBROOK





AREA 'A'



AREA 'B'

SCALE: NTS UNLESS NOTED
YEAR 2023 O.C.
DETAIL NO. 008.1
LICENSE NO. A(9)

OUR LADY QUEEN OF ANGELS	
NEWPORT BEACH	SITE PLAN

LOCATION:
ANAHEIM
RIVERSIDE
FRESNO
PALMDALE
MANTECA
SACRAMENTO
BAKERSFIELD
SANTA PAULA
FALLBROOK





COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

Subject: Muldoon's Irish Pub Remodel (PA2024-0031)
▪ Staff Approval for Substantial Conformance

Site Location 202 Newport Center Drive

Applicant Muldoon's Irish Pub

Legal Description Parcel 2B of Parcel Map 43-28 (Resubdivision No. 335)

On **May 9th, 2024**, the Community Development Director approved a Staff Approval (PA2024-0031) to allow minor changes to an approved project and found said changes to be minor and in substantial conformance with Use Permit No. UP3455A. The proposed changes include tenant improvements to the second floor that is occupied by offices and would be improved with dining areas, service areas, a bar area, restrooms, storage areas, and a 275-square-foot outdoor dining area. This approval is based on the findings and subject to the following conditions.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** Regional Commercial Office (CO-R)
- **Zoning District:** Office-Regional (OR)

I. BACKGROUND

The subject property has been developed with a restaurant since 1974, prior to the requirement of a use permit for restaurants.

On August 20, 1992, the Planning Commission approved Use Permit No. UP3455 to allow for the expansion and alteration of the existing Muldoon's Irish Pub. The Use Permit authorized the addition of two new interior dining areas, an outdoor dining court, a second bar, and a game area containing one pool table. Included was a request for a reduction in required parking.

On January 23, 1997, the Planning Commission approved an amendment to Use Permit No. UP3455 (UP3455A) to allow for an expansion and alteration of the existing restaurant. The use permit amendment authorized the following changes:

- Increase of net public area with new interior dining areas;
- Expand the outdoor dining court;
- Add an additional bar;

- Allow the use of the second floor as a bakery and food preparation area, dining room, billiards room, retail space, an office, and outdoor dining deck;
- Live entertainment and dancing;
- Valet parking service; and
- Additional parking waiver for the expanded net public area.

The total approved net public area was 5,687 square-feet, not including a 275 square-foot outdoor deck on the second floor.

Since the approval of UP3455A, the first-floor improvements have been completed, but the changes to the second floor have not been implemented.

II. Proposed Changes

The applicant is requesting approval to allow the build out of the second floor pursuant to UP3455A with minor changes to the previously approved floor plans including: reconfiguration of dining areas, changing the billiards room and retail space to additional dining areas, and changing the planned bakery and food preparation areas to storage, restrooms, mechanical rooms, and employee areas.

III. FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, and waive the requirement for a new coastal development permit application. This staff approval is based on the following findings and facts in support of the findings.

Finding:

- A. *The changes are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. The property is located within the Office-Regional (OR) Zoning District, which allows Eating and Drinking Establishments with alcohol service and late hours subject to approval of a conditional use permit. The establishment is authorized to operate under UP3455A and will continue to operate under this use permit.
2. UP3455A authorized a maximum net public area of 5,687 square-feet for the restaurant, not including a 275 square-foot deck on the second floor. In total, the project proposes a total NPA of 5,255 square-feet, which is less than the maximum allowed by the use permit. The applicant is also proposing a 275-square-foot outdoor dining area on the second floor that is consistent with the approved use permit.

3. At the time the use permit was approved, parking for eating and drinking establishments were calculated using a range of one parking space per 30 to 50 square feet of NPA and outdoor dining did not require additional parking in many circumstances¹. UP3455A analyzed the parking at a rate of one parking space per 50-square-feet of NPA for 5,687 square-feet, which required 114 parking spaces. 114 parking spaces are allocated for Muldoon's Irish Pub as part of the Design Plaza's parking pool concept.
4. Since UP3455A was approved, Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC has been amended to require parking at a rate of one parking space per 100 square-feet of gross floor area and one parking space per 150 square-feet of outdoor dining area for eating and drinking establishments. The total gross floor area for the restaurant is 7,741 square-feet and the total outdoor dining area for the restaurant is 1,340 square feet which requires a total of 87 parking spaces. However, the UP3455A conditions of approval specify that parking is required to be maintained at a rate of one space per 50 square feet of NPA, therefore the new parking rates would not be applicable to this project.

Finding:

- B. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The project was categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities), which exempts the ongoing use of existing commercial buildings where there is negligible or no expansion of use.
2. The proposed changes to the existing building will not compromise the original Class 1 exemption under the CEQA guidelines as the request involves alterations to the second floor of an existing commercial tenant space. The business will continue to operate as a restaurant and no additional square footage or uses are proposed.

Finding:

- C. The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

¹ At the time the use permit was approved, additional parking for outdoor dining was not required for areas less than 25% of the indoor NPA or 1,000 square feet (whichever is less).

1. The proposed change does not involve a feature that was specifically addressed or was the subject of a condition of approval for UP3455A.
2. Alterations and remodels require the approval of a building permit. A building permit must be issued for any tenant improvements and must comply with all development standards.
3. Although the current NBMC requires less parking than what was required at the time the use permit was approved, the restaurant will still provide the minimum of 114 surface parking spaces as previously conditioned as well as valet parking services.
4. In addition to compliance with the conditions of approval, the project has been designed to comply with all other standards of conditions of approval related to refuse storage, mechanical equipment and trash screening, and applicable building and fire code requirements.
5. The Newport Beach Police Department (NBPD) also reviewed the project and has no concerns with the application. As UP3455A was approved in 1997, the NBPD has requested to include typical (modern) conditions of approval that are imposed on new use permits. The conditions of approval are included and do not conflict with the conditions of approval of the use permit.

Finding:

- D. The changes do not result in an expansion or change in operational characteristics of the use.*

Fact in Support of Finding:

1. The project proposes a tenant improvement to the second floor that is in substantial conformance to the approved project plans. The minor changes to the floor plan do not change the overall use of the restaurant and are still within the maximum 5,687 square feet of NPA as approved in the use permit. No new additions to the restaurant are proposed.
2. The approved use permit allowed for the service of alcohol with a Type 47 (On-Sale General – Eating Place) alcohol license and late hours (i.e., after 11 p.m.). The use permit allowed the hours of operations from 5:00 a.m. to 2:00 a.m., daily and no changes to the alcohol license type or hours of operation are proposed.

IV. CONDITIONS

All previous conditions of approval of UP3455A shall remain in full force and effect as stated in Attachment No. CD 3. The following conditions are specific to this Staff Approval and do not serve to modify or amend those conditions of the original permit.

Planning Division

1. All previous conditions of approval for Use Permit No. UP3455A shall remain in force and effect.
2. The development authorized by this staff approval shall be in substantial conformance with the approved site plan (Attachment No. CD 4).
3. The Community Development Director may add to or modify conditions to this staff approval or revoke this staff approval upon determination that the operations, which is the subject of this staff approval, causes injury, or is detrimental to the public health, safety, peace, or general welfare of the community if the property is operated or maintained so as to constitute a public nuisance.
4. This approval does not relieve the applicant of compliance with other City or State requirements. The Applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.
5. *To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Muldoon's Irish Pub Remodel including, but not limited to, Staff Approval (PA2024-0031)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

Police Department

6. The Alcoholic Beverage Control License shall be limited to a Type 47 (On-Sale Beer General). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Use Permit.

7. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
8. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
9. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
10. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
11. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
12. Alcohol service and alcohol consumption must occur in the ABC licensed areas only.
13. Food service shall be made available to patrons during alcohol service.
14. Strict adherence to maximum occupancy limits is required.
15. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
16. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the

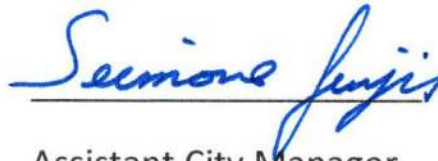
action or decision was rendered unless a different period is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:



Jenny Tran, Assistant Planner

Approved by:



Assistant City Manager

LAW/jt

- Attachments:
- CD 1 Vicinity Map
 - CD 2 Project Description
 - CD 3 Use Permit No. UP3455A
 - CD 4 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Subject Property

Staff Approval
(PA2024-0031)

202 Newport Center Drive

Attachment No. CD 2

Project Description

**Muldoon's Irish Pub
Changes to an Approved Project
Use Permit No. UP3455 (Amended)**

NBMC 20.54.070 – Changes to an Approved Project

Pursuant to NBMC Section 20.54.070 (Changes to an Approved Project), Fashion Island Partnership, LLC (“Applicant”) requests approval for minor changes to a previously approved floor plan under Use Permit No. UP3455 (Amended).

Use Permit No. UP3455 (Amended), approved by the Planning Commission on January 23, 1997, allowed the expansion of Muldoon's Irish Pub (“Muldoon's”) and allowed live entertainment. The approved expansion included new interior dining areas and the expansion of the courtyard dining area on the ground floor. Also included was a second-floor expansion that included food preparation area, dining room, billiards room, office and outdoor dining deck. The approval allowed a total of the 5,687 square feet of net public area (NPA). Muldoon's was approved for and currently operates with a Type 47 (On-Sale General – Eating Place). Muldoon's operates consistent with the allowed operating hours of 5:00 a.m.- 2:00 a.m., daily. No changes to allowed operating hours or ABC license type is proposed as part of this minor change request.

The first-floor expansion and improvements have been completed. The Applicant is now requesting approval to allow minor changes to the previously approved floor plan for the second-floor expansion area. The requested second floor plan are attached.

The following analysis demonstrates that the proposed minor changes to the floor plan are in substantial conformance with the previously approved Use Permit No. 3455 (Amended) and that the required findings pursuant to NBMC Section 20.54.070 (Changes to an Approved Project). Furthermore, the analysis demonstrates that the revised floor plans comply with all conditions of approval.

Project Description

The Applicant intends to proceed with tenant improvements to the second-floor area previously approved by UP3455 (Amended). The existing tenant space is occupied by offices. The interior expansion includes dining areas, service areas, a small bar, new restrooms and a storage room. These uses are generally located in the same area as shown on the approved floor plans under UP3455 (Amended). Exterior improvements include a new wheelchair lift to meet accessibility requirements at the front of the building

near the existing stairs and screened roof top mechanical HVAC equipment. Additionally, a small existing second floor deck area (275 square feet) will be used as outdoor dining which was also included as part of the UP3455 (Amended) approval.

Net Public Area
5,687 Square Feet NPA Allowed Maximum
(Table 1)

	Existing	Proposed
First Floor Courtyard	1,065	1,065
First Floor Interior (E)	2,325	2,325
Second Floor Interior	zero	1,865
Total		5,255

NBMC 20.54.070 – Changes to an Approved Project

In accordance with Section 20.54.070(B)(1), the Community Development Director, or his/her designee, may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing where the Director first finds that the minor changes:

- a. Are consistent with all applicable provisions of this Zoning Code;
 - Eating and Drinking Establishment are allowed in the OR (Office—Regional) Zoning District subject to the approval of a use permit.
 - Muldoon's currently operates pursuant to UP3455 (Amended) approved by the Planning Commission on January 23, 1997.
 - The proposed minor floor plan changes comply with all UP3455 (Amended) conditions of approval, including the net public area restrictions. An analysis of compliance with applicable conditions of approval is provided in Table 2, below.
 - The combined net public area of the proposed second floor is 1,865 square feet. When combined with the ground floor net public area of 3,390 square feet (5,255 NPA total) the establishment does not exceed 5,687 square foot net public area maximum included in Condition of Approval No. 3.

- b. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;

- UP3455 (Amended) included a determination that the project was categorically exempt from the California Environmental Quality Act pursuant to a Class 1 (Existing Facilities) exemption.
 - The proposed minor floor plan changes do not intensify the development beyond that contemplated by UP3455 (Amended), and in fact the net public area is less than the total net public area authorized under UP3455 (Amended).
- c. Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and
- The proposed minor floor plan changes have been designed to be in substantial conformance with the previous approvals.
 - Approved hours of operation are 5:00 a.m. to 2:00 a.m., daily. In practice, operating hours vary by day depending upon customer demand; however, opening is never earlier than 5:00 a.m. and closing is no later than 2:00 a.m.
 - The establishment currently and will continue to comply with all applicable conditions of approval included in the approval of UP3455, approved by the Planning Commission on August 20, 1992, and Use Permit No. 3455 (Amended) approved by the Planning Commission on January 23, 1997
 - In addition to compliance with conditions of approval related to floor area, net public area, hours of operation, live entertainment and parking, the project is designed to comply with all other standard conditions of approval related to refuse storage, mechanical equipment and trash screening, and applicable building, and fire code requirements.
 - Please refer to Table 2 (below) for additional details on how the project complies with development standards and conditions of approval.
- d. Do not result in an expansion or change in operational characteristics of the use.
- UP3455 (Amended) allowed the expansion of an existing eating and drinking establishments with a maximum interior net public area of 5,687 square feet of net public area, 1,065 square foot dining courtyard and 275 square foot second floor deck. The establishment also includes restrooms, kitchen areas, storage, bars, offices and other back of house areas.
 - With the proposed minor floor plan changes the establishment will comply with the 5,687 square foot net public area limit which includes the 1,065

square foot dining courtyard limit and 275 square foot limit for the second-floor deck.

- With the minor floor plan changes Muldoon's will remain a Food Service, Eating and Drinking Establishment as defined by the zoning code and will continue to operate pursuant to the UP3455 (Amended) conditions of approval.
- The minor floor plan changes do not increase the area of the establishment beyond that approved and are located within the existing building.

Table 2: UP3455(A) Conditions of Approval

<p>1. That the development shall be substantial conformance with the approved revised, plot plan, floor plans and elevations except as noted below.</p>	<p>Complies. The proposed alterations are consistent with the approved plans. Please refer to the attached architectural plans.</p>
<p>2. That all applicable conditions of approval of Use Permit No. 3455 as approved on April 20, 1992, shall remain in force.</p>	<p>Complies. Previous conditions have been incorporated in the amended CUP or are no longer applicable.</p>
<p>3. That the "net public area" shall be limited to a maximum of 5,687 square feet (1,065 sq.ft. of courtyard dining and 4,622 sq.ft. of interior dining bar/lounge area. That minimum of one parking space for each 50 sq.ft. of "net public area" (114 spaces) shall be provided on-site and within the adjacent parking areas located within design plaza.</p>	<p>Complies. The proposed net public area is as follows: First Floor interior: 2325 Second Floor Interior 1865 Courtyard: 1065 Total: 5255 Parking – is provided within the shared parking area of Design Plaza. When approved, the parking area had 5 surplus spaces during the day and 255 surplus spaces in the evening. The parking lot design and mix of tenant users sharing the lot is generally the same now as at the time of approval.</p>
<p>4. That all restaurant employees shall be required to park on-site (within Design Plaza) at all times during the time which the restaurant is operating.</p>	<p>Complies. All employees using personal vehicle are instructed to park within Design Plaza.</p>
<p>5. That during the daytime hours (prior to sunset), employees shall be directed to park within Parking Zone 5 as depicted in the Parking Zone Exhibit included in the excerpt of the Traffic and Parking Impact Study for Edwards Theater Triplex Addition (page 12)</p>	<p>Complies. All daytime employees using personal vehicle are instructed to park within Parking Zone 5.</p>
<p>6. That a valet plan shall be submitted to the City Traffic engineer for review and approval prior to the continued uses of the valet parking service.</p>	<p>Complies. Valet service is currently not offered. Future valet service, if any, will use a City Traffic Engineer approved valet operations plan.</p>
<p>7. That the hours of operation shall be limited to 5:00 a.m. to 2:00 a.m. daily, unless as amended use permit is approved by the planning commission.</p>	<p>Complies. The current operating hours are limited to 5:00 a.m. and 2:00 a.m., daily.</p>
<p>8. That the area outside of the food establishment, including the public sidewalk or walkways, shall be maintained in a clean and orderly manner. That the</p>	<p>Complies Muldoon's complies with this condition.</p>

Muldoon's Irish Pub
 202 Newport Center Drive
 Changes to an Approved Project
 UP3455 (Amended)
 January 30, 2024

operator shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.	
9. That all trash areas and mechanical equipment shall be shielded or screened from public streets and adjoining properties overlooking the restaurant and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code.	Complies. New roof-top mechanical equipment is screened. No change to trash hours.
10. That kitchen exhaust fans shall be installed in accordance with Uniform Mechanical Code and approved by the Building Department. That issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.	Complies. Mechanical code compliance related to kitchen exhaust will be reviewed for compliance prior to the issuance of building permits for the expansion.
11. That where grease may be introduced into the drainage systems, grease interceptors shall be installed on all fixtures as required by the Uniform Plumbing Code, unless otherwise approved by the Building Department.	Complies. Plumbing code compliance related to grease control will be reviewed for compliance prior to the issuance of building permits for the expansion.
12. That a covered wash-out area for refuse containers and kitchen equipment shall be provided and they shall drain directly into the sewer system unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternative drainage plan.	Complies. The project has been designed to comply with all drainage and run-off standards and policies.
13. That storage outside the building in the front or rear of the property shall be prohibited with the exception of the required trash container enclosure.	Complies. Muldoon's complies with this condition.
14. That all trash shall be stored within the building or within dumpsters stored in the trash enclosure, or otherwise screened from view of neighboring properties except when placed for pick-up by refuse collection agencies. That the trash dumpsters shall be fully enclosed and the top shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency	No change to existing conditions.
15. That the applicant shall maintain the trash dumpsters or receptacles so as to control odors which may include the provision of fully self contained dumpsters or may include periodic steam cleaning of the dumpsters. If deemed necessary by the Planning Department.	Complies. Muldoon's complies with this condition.
16. That a Live Entertainment Permit and a Café Dance Permit shall be approved by the revenue Division, in accordance with the procedures set forth in Chapter 5 of the Municipal Code, to allow live entertainment and dancing as incidental and accessory to the primary uses of the facility as a restaurant.	Complies. Live entertainment permit obtained. No dancing currently taking place.
17. That the live entertainment and pre-recorded music shall be limited so that the sound shall be confined to the interior of the structure; and further that when the live entertainment is performed, all windows and doors within the facility shall be closed, except when entering and leaving by the main entrance of the facility. That the noise generated by the live entertainment shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than 55 dBA at any property line. That the applicant	Complies. Muldoon's complies with this condition.

<p>shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the live entertainment to ensure compliance with these conditions, unless otherwise approved by the Planning Director.</p>	
<p>18. That any entertainment (live, disc jockey, etc.) provided shall not disturb any nearby business and shall not be audible outside of the building.</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>19. That the approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, as the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use. Further, that any event which is contemplated not to operate with the sale or service of food and beverages as the principal purpose (i.e., cocktail reception or mixer), shall be subject to the approval of a special event permit issued by the Revenue Division and approved by the Police Department. Said special event permit shall be completed and submitted to the Revenue Division at least 30 days prior to the date of .the event (unless other arrangements are made with the City Departments), to allow adequate time for the Police Department and other City Departments to review the application and to impose additional conditions of approval.</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>20. That this approval shall not be construed as permission to allow concerts or a theater/nightclub use as defined by the Municipal Code, unless an amendment to this use permit is first approved by the Planning Commission.</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>21. That no outside event shall be conducted unless in conjunction with the service of food.</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>22. That the live entertainment shall not be allowed within the second-floor deck or walkway areas.</p>	<p>Complies. Muldoon's has and will continue to comply with this condition.</p>
<p>23. That no temporary "sandwich" signs, balloons or similar temporary signs or attention attracting devices shall be permitted, either on-site (outside of the building) or off-site, to advertise the establishment, unless specifically permitted. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.</p>	<p>Complies. Ongoing requirement.</p>
<p>24. That all signs shall conform to the provisions of Chapter20.06 of the Municipal Code</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>25. That the project shall be designed to minimize light and glare spillage onto adjacent properties or uses. That prior to issuance of a certificate of occupancy, the applicant shall demonstrate to the Planning Department that the exterior lighting system has been evaluated and the light sources redirected or shielded in such a manner as to conceal the light source and to minimize light</p>	<p>Complies. Ongoing requirement.</p>

Muldoon's Irish Pub
 202 Newport Center Drive
 Changes to an Approved Project
 UP3455 (Amneded0
 January 30, 2024

<p>spillage and glare to the adjacent properties. The plans shall be prepared and signed by a licensed Electrical Engineer acceptable to the City, with a letter from the engineer stating that, in his opinion, this requirement has been met.</p>	
<p>26. That no outside paging system shall be utilized in conjunction with this facility.</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>27. That the project shall comply with State Disabled Access requirements.</p>	<p>Complies. New wheelchair lift added to comply. Will be reviewed by Building Division in plan check,</p>
<p>28. That the building shall be fire sprinklered to the satisfaction of the Building and Fire Departments.</p>	<p>Complies. Will be reviewed by Fire and Building Division in plan check</p>
<p>29. That the facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department</p>	<p>Complies. Will be reviewed by Fire and Building Division in plan check</p>
<p>30. That the Planning Commission may add or modify conditions of approval to the use permit or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit causes injury, or is detrimental to the health, safety, peace, morals, comfort or general welfare of the community.</p>	<p>Complies. Muldoon's complies with this condition.</p>
<p>31. That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.</p>	<p>Complies. The Use Permit is fully vested and was exercised with the completion of the first-floor improvements.</p>

Attachment No. CD 3

Use Permit No. UP3455A



CITY OF NEWPORT BEACH
COMMUNITY AND ECONOMIC DEVELOPMENT
PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92658
(714) 644-3200; FAX (714) 644-3250

Hearing Date:	January 23, 1997
Agenda Item No.:	2
Staff Person:	Javier S. Garcia 644-3206
Appeal Period:	14 days

REPORT TO THE PLANNING COMMISSION

PROJECT: **Muldoon's Irish Pub and Restaurant**
(Mark H. Singer, architect/applicant, for R. & S. Schwartz, owners)
202 Newport Center Drive

PURPOSE OF APPLICATION:

Request to permit an expansion and alterations of the existing pub/restaurant which currently provides on-sale alcoholic service and an outdoor dining courtyard. The application is a request to:

- alter the ground floor to increase the net public area with new interior dining areas, expand the outdoor dining court, add a second bar and a game area containing one pool table;
- increase the gross floor area to add a storage room at the ground floor;
- alter the second floor to provide a bakery and food preparation area, dining room, billiards room, a related office and an outdoor dining deck;
- add live entertainment and dancing;
- add a valet parking service;
- continue the reduced parking requirement for the expanded net public area or waive a portion of the required off-street parking;
- continue the waiver of specific restaurant development standards.

SUGGESTED ACTION:

Approve, modify or deny:

- *Use Permit No. 3455 (Amended)*

LEGAL DESCRIPTION:

Parcel 2B, of Parcel Map 43-28 (Resubdivision No. 335), on the southeasterly corner of Newport Center Drive and Anacapa Drive, in Newport Center.

ZONE:

APF-H (Administrative, Professional and Financial Commercial District)

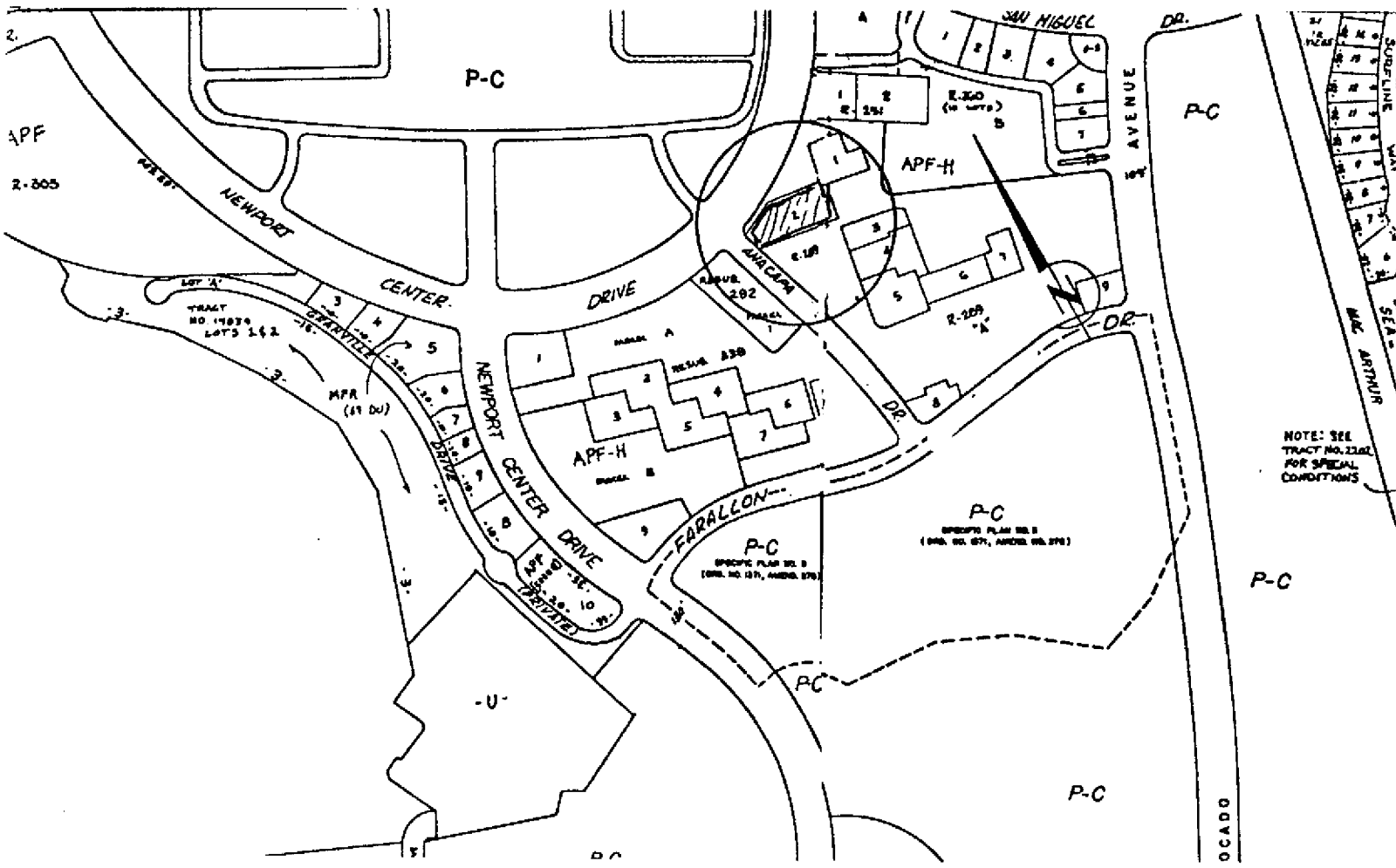
OWNER:

Ronald and Sindi Schwartz, Newport Beach

Points and Authority

- Environmental Compliance (California Environmental Quality Act)
It has been determined that the project is categorically exempt under Class 1 (Existing Facilities).

VICINITY MAP



Use Permit No. 3455 (Amended)¹

¹ Subject Property and Surrounding Land Uses

Current Development: The subject restaurant facility is located within an existing commercial office building in the Design Plaza Area of Newport Center, southeasterly of Fashion Island on Newport Center Drive. Design Plaza is made up of Newport Theaters (the former Good Earth Restaurant), nine office/commercial buildings and the building which houses the subject restaurant and related parking lot. The surrounding parking lot is used in common by the restaurants and the surrounding office buildings.

To the northwest: across Newport Center Drive is Fashion Island Shopping Center.

To the northeast and southeast: are office buildings all a part of Design Plaza

To the southwest: across Anacapa Drive, is the Beacon Bay Carwash

- Conformance with the General Plan

The Land Use Element of the General Plan designates the site for "Administrative, Professional and Financial Commercial" uses. A restaurant is considered a support use within this designation. The Land Use Element has also established area specific land use policies throughout the City. These "area" policies set a site-by-site square footage development limit of 178,777 sq.ft.. Given that the application is for a partial renovation of an existing building and a minor increase in total square footage which will not exceed the development limit, the proposal is consistent with the Land Use Element policies and guidelines.

- Use Permit procedures are set forth in Chapter 20.80 of the Municipal Code.

Comparison of Proposed and Previous Operation

	Existing Restaurant Operation (as previously approved)	Proposed Restaurant Operation	
Live Entertainment	No	Yes	
Dancing	No	Yes	
Valet Parking Service	No	Yes	
Number of Employees:	17 employees	23 to 25 employees	
Hours:	5:00 a.m. to 2:00 a.m., daily.	5:00 a.m. to 2:00 a.m., daily.	
Gross Bldg Area (sq.ft.) ²	8,971 sq.ft.	9,166 sq.ft. (includes 195 sq.ft. addition)	
Subject Tenant Space ³ (% of building)	4,024 sq.ft. (56%)	7,974 sq.ft. ⁴ (87%)	
Net Public Area (NPA) (% of NPA):		<u>Phase One</u>	<u>Phase Two (Future)</u>
Interior Dining:			
First Floor	2,247 sq.ft. (70%)	2,423 sq.ft.(69%)	2,423 sq.ft. (43%)
Second Floor	0 sq.ft.	0 sq.ft.	2,199 sq.ft. (39%)
Outdoor Dining:			
First Floor Courtyard:	953 sq.ft.(30%)	1,065 sq.ft. (31%)	1,065 sq.ft. (19%)
Second Floor Deck ⁵ :	0 sq.ft.	275 sq.ft.	275 sq.ft.
TOTAL:	3,200 sq.ft.	3,488 sq.ft.	5,687 sq.ft.

² Excludes the courtyard dining area.

³ Excludes courtyard dining.

⁴ Excludes the office use, mechanical rooms and restrooms on the second floor.

⁵ Second Floor Deck Dining is exempt from parking calculations and requires a separate approval by future permit
Use Permit No. 3455 (Amended)

Parking Comparison

	Existing Restaurant Operation	Proposed Restaurant Operation	
Parking Pool Available On-site (Block 200):	668 spaces	668 spaces	
Parking Allocated to Retail and Office Uses and Theater Use On-Site:	565spaces	<u>Daytime</u> 549 spaces	<u>Nighttime</u> 299 spaces
Parking Allocated to Restaurant Use:			
on-site	64 spaces	114 spaces	114 spaces
off-site ⁶	0 spaces	0 spaces	0 spaces
TOTAL	629spaces	663 spaces	413 spaces
Parking unallocated:	39 surplus spaces	5 surplus spaces	255 surplus spaces
Required Parking Range: (surplus/deficit) @ 1/50 sq.ft. npa	64 spaces required	114-190 spaces	114-190 spaces
@ 1/40 sq.ft. npa		114 spaces (surplus of 5)	114 spaces (surplus of 255)
@ 1/30 sq.ft. npa		143 spaces (deficit of 24)	143 spaces (deficit of 226)
		190 spaces (deficit of 71)	190 spaces (deficit of 179)

Analysis

The existing business currently operates for lunch and dinner service during daytime and evening hours, with the hours of operation generally from 11:30 a.m. to 2:00 a.m. daily. The maximum number of employees during peak hours is approximately 17 employees and will increase to as many as 25 with the proposed expansion.

The restaurant currently contains approximately 4,977± gross sq.ft. (by previous approval) and consists of an existing outdoor dining area (953 sq.ft., authorized), bar/lounge, interior dining area, waiting area, manager's office and storage area and game/bar area. The proposed remodel and expansion will encompass the balance of the ground floor and portions of the second floor or approximately 7,974 gross square feet (excluding the 1,065 sq.ft. courtyard dining) and provide

⁶ No formal off-site parking agreement exists or is proposed by the applicant.

approximately 5,687 sq.ft. of "net public area" (includes the 1,065 sq.ft. courtyard). The facility expansion as proposed will add approximately 3,950 gross square feet (3,408 sq.ft. at the 2nd floor and 542 sq.ft. at the 1st floor) to the existing facility and will result in current office and storage area being converted to dining and bar area and related restaurant retail and storage, with the exception of a second floor office and restroom/mechanical rooms (1,192 sq.ft.) which will remain as the only footage unrelated to the restaurant.

Courtyard Dining Area

The previous approval which established the courtyard dining required that the outdoor dining area be defined so as not to encroach on the passageway to the existing office use, located on the ground floor of the building. The applicant never accomplished this requirement and the actual net public area utilized totaled 1,065 sq.ft., where the maximum amount permitted was 953 sq.ft.. Staff has therefore included the expanded courtyard area into the calculations for parking, since the area does not fall within the definition of accessory outdoor dining.

Outdoor Dining Area

The plans submitted by the applicant indicate an outdoor dining area on the second floor of the building overlooking the courtyard. The applicant has indicated that the dining deck will not be implemented until sometime in the future and that an application for an accessory outdoor dining permit will be submitted at a future date.

Available Parking

The original construction of Design Plaza (as verified by review of Building Department records) was parked under a parking pool concept based on a requirement of one parking space for each 250 square feet of gross floor area of office and retail space and one parking space for each 3 occupants of each restaurant. The total number of parking spaces required for Design Plaza based on the above mentioned requirements and existing uses is 549 parking spaces ($137,019 \pm \text{sq.ft.} \div 250 = 548.2$ or 549 spaces), leaving 119 parking spaces available for the use of the expanded restaurant. Currently, 64 parking spaces are required for the existing Muldoon's Irish Pub Restaurant, resulting in 55 spaces unallocated or surplus parking.

Off-Street Parking Requirement

As shown in the parking comparison table, the parking requirement for the proposed restaurant based upon a requirement of one parking space for each 50 square feet of "net public area" is 114 parking spaces (an increase of 50 parking spaces) and the parking requirement could vary from 114 spaces to 190 spaces. The permitted office and retail use in the proposed expanded tenant space would generate a requirement for 16 parking spaces ($3,950 \text{ sq.ft.} \div 250 = 15.8$ or 16 spaces). Thus, based on the above requirements, 34 parking spaces in addition to the 16 spaces allocated to the tenant space would be required for the restaurant facility expansion (114 parking spaces - 64 spaces - 16 spaces = 34 spaces). Inasmuch as there is a current surplus of approximately 39 parking spaces, the proposed expanded facility will utilize 34 of those excess spaces, leaving a surplus of 5 parking spaces.

The applicant has proposed that the parking requirement be continued at the rate of one space for each 50 square feet of "net public area" and that the parking demand can be accommodated by the available unallocated on site parking. Staff is of the opinion that one parking space for each 50 sq.ft. of "net public area" may be adequate and appropriate in this case, given the pool parking which is utilized within Design Plaza and based on information set forth in the Traffic and Parking Impact Study performed for the Big Newport Cinemas Triplex addition (an excerpt of which is attached at the end of this report). Staff has not observed any parking problems associated with the existing operation (which currently includes the use of the courtyard dining area) and foresees no problems with the proposed expansion. However, it should be noted that although the numbers reflect no negative impact on parking the reality is that persons will be required to park farther away as the more convenient parking spaces fill as would occur in any commercial parking lot. It was also observed by staff that parking across Newport Center Drive in Fashion Island is also utilized by patrons of the restaurant. Therefore, staff has included a condition of approval requiring that the restaurant employees park in the parking lot located at the southerly end of Design Plaza to make available the nearest parking spaces (behind the theater) for the retail uses of Design Plaza and is also intended to allow female employees to move their vehicles closer to the restaurant facility as sunset approaches for safety reasons. The applicant has also indicated that the peak hours are typically in the evenings when the parking demand for Design Plaza is the lowest and that lunch time diners are usually from the area and walk to the establishment.

However, should the Commission be of the opinion that the provision of one space for each 50 sq.ft. of net public area is not adequate to accommodate the expanded portion of the facility devoted to the service of alcoholic beverages (which typically have higher occupancy rates and, therefore, generate a higher parking demand) and that the restaurant/bar should provide parking at the higher rate of one space for each 40 square feet of net public area for the daytime use; the following substitute Condition of Approval No. 3, which requires a reduction in the proposed daytime net public area from 5,687 square feet to 4,760 sq.ft. (one space for each 40 sq.ft. x 119 = 4,760 sq.ft.) and includes all unallocated daytime parking spaces within Block 200, should be incorporated into the exhibit for approval.

3. That a minimum of one parking space for each 40 sq.ft. of "net public area" (daytime 4,760 sq.ft with 119 spaces; 5,687 sq.ft. nighttime with 143 spaces) shall be provided for the subject facility. A physical barrier or partition with a minimum height of 42 inches, with design acceptable to the Planning Department, shall be utilized to reduce the net public area to a maximum of 4,760 sq.ft. during the hours of 6:00 a.m. and 5:30 p.m., daily (nighttime maximum net public area 5,687 sq.ft.).

Valet Parking

The applicant has been utilizing a valet parking service in the recent past without benefit of approval of a use permit. The applicant does not wish to utilize the valet parking on a full time basis, but will utilize the service at peak hours and will also serve patrons of other uses in Design Plaza with valets. That is, they will serve any patron who wishes to use the valet. During peak hours the valet service will make patron access easier by parking patron vehicles in the more distant parking areas or by tandem parking of vehicles, thereby freeing up the nearby self-parking for

Design Plaza patrons. Staff has included a condition requiring that a valet parking plan be submitted and approved by the City Traffic Engineer prior to the continued use of the valet service. Staff is of the opinion that the use of the valet parking service will make more parking space available convenient to the restaurant building.

Live Entertainment

The applicant proposes to add live entertainment as incidental and accessory to the primary restaurant use, generally in the form of up to four musicians and a vocalist located in varying locations throughout the restaurant facility, but generally within the courtyard (mainly in the summer months). The applicant has not established one particular area for the live entertainment because the type of function will determine whether the entertainment is located on the first or second floor dependent on the size of the audience which will determine the location within the facility. Staff's only concern is live entertainment located on the second floor and the potential for noise carrying out over the first floor roof line and southerly toward Anacapa Drive. Staff believes that the location of the building or the courtyard and its orientation within Design Plaza will mask the noise generated and will not create any significant noise problems related to the live entertainment and sound amplification so long as the doors and windows of the establishment remain closed during the performance of live entertainment or the use of any other amplified sound or recorded music. It should also be noted that there are no residential properties within Design Plaza and the nearest residences or overnight accommodations are located at the Newport Beach Marriott and the Granville Residential Tract approximately a quarter mile away. Appropriate conditions have been incorporated into the exhibit for approval.

Dancing

The applicant has also included a request to permit dancing within the restaurant as incidental and accessory to the primary restaurant use. The applicant has no intention of installing a dance floor on a permanent basis, but only wishes to be able to allow dancing mainly in conjunction with private parties and special events. The size and location of the dance floor will also be dependent on the location and size of the group which utilizes it, much the same way as the live entertainment mentioned previously. Therefore, staff has not included any specific location for the dance floor and will leave that to the discretion of the manager. However, staff does not feel that dancing should be allowed in the courtyard of the facility since it is the main means of ingress and egress from the establishment. Therefore, staff has recommended that the dancing be limited to the interior of the building as incidental and accessory to the primary use as a restaurant (not allowed within the courtyard) and that the appropriate cafe dance permit be obtained from the Revenue Manager.

Restaurant Development Standards

Chapter 20.72 of the Municipal Code contains development standards for restaurants, as outlined below, to ensure that any proposed development will be compatible with adjoining properties and streets. Said development standards include specific requirements for building setbacks, parking and traffic circulation, walls surrounding the restaurant site, landscaping, exterior illumination, signage, underground utilities, and storage. Section 20.72.130 of the Municipal Code states that

any of the above mentioned development standards for restaurants may be modified or waived if strict compliance is not necessary to achieve the purpose or intent of the standard.

Development Standards

	PROPOSED Purpose or Intent Compliance	REQUIREMENT Purpose or Intent
<i>Setbacks</i>	Complies with APF District Standards.	Zero setbacks sides, front and rear per APF District Development Standards; intent or purpose is to limit size and bulk of buildings as visible from adjacent public streets and neighboring properties.
<i>Parking and traffic control</i>	Complies.	Parking, curb cuts and Circulation; to facilitate traffic and circulation of vehicles and pedestrians on and around the facility.
<i>Walls (surrounding the restaurant site)</i>	Waiver of the requirement of the 6 ft. high wall since noise issues have been adequately addressed by restrictions on the proposed use and the fact that the neighboring uses are generally closed at the times when the live entertainment is performed.	6 foot high surrounding the entire property; to control noise and other nuisances generated by vehicles in the parking lot.
<i>Landscaping</i>	Waiver of additional landscaping, where strict compliance would add landscaping which would not further enhance the streetscape since it would be located at the rear of the property, behind the building and not visible from Newport Center Drive or Anacapa Drive.	10% of entire site; to beautify and enhance the streetscape enjoyed by the public.
<i>Lighting</i>	Waiver , the existing parking lot lighting is not proposed to be altered and there have not been any past complaints related to lighting. However, staff has included a condition of approval requiring that the lighting be directed to minimize impacts on neighboring properties. Strict compliance would not achieve any greater result than would redirection of existing light sources to achieve the purpose or intent of this reqmt.	Parking lot and site illumination, height and intensity; to limit light and glare visible from and from spilling onto neighboring properties.
<i>Signing</i>	Complies.	Compliance with 20.06 of the Municipal Code (the Sign Code); to maintain a uniformity of signs compatible with the signs of other uses in the area.
<i>Underground utilities</i>	Complies.	All utilities required to be undergrounded, to eliminate visual impacts of the overhead power lines.
<i>Storage</i>	Complies.	Supplies and Refuse storage hidden from view; to limit visual impacts from public street or neighboring properties

Staff is of the opinion that the on-site development standards as they apply to walls (surrounding the restaurant), landscaping, and lighting should be waived if the Planning Commission approves this application, since the granting of the waiver will achieve the same results as would strict

⁷ The number of required parking spaces is addressed in the body of the report and this section relates to dimensions of parking spaces and aisle widths of the parking lot.

compliance with the requirements of Chapter 20.72. It should also be noted that the Planning Commission has the ability to call up the use permit for review in the future, should problems arise with regard to any aspect of the operation.

Census Tract No. 630.08 and Reporting District Statistics:

The Planning Commission has requested information regarding liquor license concentration and crime statistics for the area in which projects involving increase in alcoholic beverage service is proposed. The facility is located within Police Reporting District No. 39 (Newport Center/Fashion Island). This Reporting District comprises Census Tract No. 630.08.

	Census Tract No. 630.08	Projected Based on Orange County average	Reporting District No. 39
Population:	868 ⁸		
Liquor Licenses:			
on-sale licenses	28 (1 per 31 persons)	1 (1 per 893 persons)	
off-sale licenses	3 (1 per 289 persons)	1 (1 per 1,533 persons)	
Part 1 Type-Crime ⁹			348
Part 2 Type-Crime ¹⁰			112
Total Crime Incidents			460 (135% above the Reporting District Average Citywide)
Average per Reporting District Citywide	196		

As can be seen in the table above, the Census Tract currently exceeds the countywide average of on-sale and off-sale liquor licenses based on population. This indicates an overconcentration of licenses in the area as defined by State law. This ratio is magnified by the fact that this Census Tract is the second lowest populated Census Tract in the City and is comprised of mainly commercial land uses (Newport Center/Fashion Island) with relatively few residential units. Also, the number of crime incidents in Reporting District No. 39 currently exceeds the Citywide average per reporting district by 135%, magnified by the presence of a regional mall which experiences crimes such as theft and shoplifting which are unrelated to the sale of alcohol.

⁸ This is based on the OCP 1996 Estimate (which includes projected population increase with the Colony Apartment project currently under construction in Newport Center), the 1990 Census population is 366 persons

⁹ Include murder, robbery, rape, burglary, theft, arson, auto theft.

¹⁰ Include drinking, narcotic violation, vandalism, drunk and disorderly.

The State Department of Alcoholic Beverage Control has advised staff that this establishment has not been problematic. Because this proposal is for the expansion of an existing use that has not created problems, rather than the establishment of a new liquor license and assuming continued control exercised by the existing operator, staff anticipates that the proposed expansion will not have a detrimental effect on the neighborhood and will not result in a significant impact requiring additional demand for police services. If the operator's control should not continue to prevent problems from occurring, Condition of Approval No. 30 provides for the Planning Commission to add or modify conditions of approval, or recommend that the City Council to revoke the use permit.

Specific Findings and Recommendations

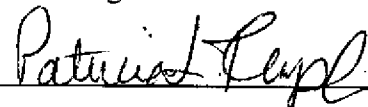
Section 20.80.060 of the Newport Beach Municipal Code provides that in order to grant any use permit, the Planning Commission shall find that the establishment, maintenance or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

In this particular case, based upon the analysis contained in this report, staff is of the opinion that the proposed expansion can be accommodated by the existing parking within Design Plaza and that the live entertainment and dancing are incidental and accessory to the primary restaurant use and are not anticipated to create any problems.

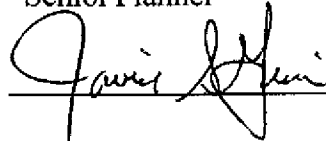
Staff is of the opinion that the existing physical attributes of the property size and the fact that the bar/restaurant is only one building within a multi-building complex complicates the ability to develop the property in full compliance with the provisions of Chapter 20.72 of the Municipal Code with regard to walls, landscaping, and parking lot illumination. Therefore, the remodeling of the existing bar/restaurant with the conditions as recommended by staff, will not create or increase any detrimental effect on the surrounding neighborhood nor decrease the purpose or intent of the provisions of Chapter 20.72.

Should the Planning Commission wish to approve Use Permit No. 3455 (Amended), as submitted by the applicant incorporating the recommendations of staff, appropriate findings and conditions are suggested in the attached exhibit for approval. However, should the Planning Commission desire to deny this application, the findings set forth in the attached Exhibit "B" are suggested.

Submitted by:
PATRICIA L. TEMPLE
Planning Director



Prepared by:
JAVIER S. GARCIA, AICP
Senior Planner



Attachments: Exhibit "A"
Exhibit "B"
Appendix
Letter from the Applicant Describing the Operation

Second Floor Seating Plan
Excerpts of Planning Commission minutes dated August 20, 1992
Excerpt of Traffic and Parking Impact Study Edwards Big Newport
Cinemas Triplex Addition
Plot Plan, Proposed Floor Plans, 2nd Floor Seating Plan and Elevation of Addition

F:\USERS\PLN\SHARED\PLANCOM\1997\0123\UP3455A.DOC

EXHIBIT "A"
FINDINGS AND CONDITIONS OF APPROVAL FOR
Use Permit No. 3455 (Amended)

Findings:

1. That the Land Use Element of the General Plan designates the site for "Administrative, Professional and Financial Commercial" uses and the proposed development is the expansion of a restaurant, a support use within this designation.
2. That this project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. That the proposal involves no physical improvements (195 sq.ft. addition) which will conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
4. That the waiver of development standards as they pertain to walls (surrounding the restaurant site), landscaping and lighting meets the purpose or intent of the development standards as they apply to restaurants and the required standards will not be achieved to any greater extent by strict compliance with those requirements if the Planning Commission approves this application, for the following reasons:
 - The existing physical characteristics of the site are not proposed to be altered.
 - Walls would adversely impact existing public views enjoyed from Newport Center Drive, Anacapa Drive and neighboring properties within Design Plaza.
 - That the same purpose or intent of the required walls surrounding the property to control noise can be achieved by the restrictions requiring the closing of door and windows in conjunction with live entertainment which will alleviate potential noise problems.
 - The addition of landscaping would be at the rear of the property behind the building which would not enhance streetscape views from Newport Center Drive or Anacapa Drive.
 - The existing parking lot lighting is not proposed to be altered; there have not been any past complaints related to lighting; and the same result can be achieved by the redirection of existing light sources.
5. The approval of Use Permit No. 3455 (Amended) will not, under the circumstances of the case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City, for the following reasons:
 - The existing parking is adequate to accommodate the proposed expansion and the remaining uses and the current on-site parking (within Design Plaza) remains available for the existing and proposed uses on a first come first served basis.

- As a result of the conversion of the retail and office space to additional bar/restaurant use, the overall parking demand for the property will be increased but is offset by parking previously allocated to the former Good Earth Restaurant, based on a comparison of the parking requirements for those uses.
- Adequate provision for vehicular traffic circulation currently exists in the common parking lot and no problems or complaints have arisen as a result of the existing unauthorized valet parking service arrangement.
- The live entertainment, as limited by this approval is incidental and accessory to the primary restaurant use and will not result in noise impacts on surrounding properties and will alleviate the potential demand for police services in the area.
- The proposal will not add a new liquor license to an overconcentrated area, but allow the expansion of an existing business.
- The expanded establishment is anticipated to operate in generally the same manner as the existing establishment which has resulted in a low number of police and Department of Alcoholic Beverage Control problems.

Conditions:

1. That development shall be in substantial conformance with the approved site plan, floor plans and elevations, except as noted below.
2. That all applicable conditions of approval of Use Permit No. 3455 as approved on August 20, 1992, shall remain in force.
3. That the "net public area" shall be limited to a maximum of 5,687 square feet (1,065 sq.ft. of courtyard dining and 4,622 sq.ft. of interior dining and bar/lounge area). That a minimum of one parking space for each 50 sq.ft. of "net public area" (114 spaces) shall be provided on-site and within the adjacent parking areas located within Design Plaza.
4. That all restaurant employees shall be required to park on-site (within Design Plaza) at all times during the time which the restaurant is operating.
5. That during the daytime hours (prior to sunset), employees shall be directed to park within Parking Zone No. 5 as depicted in the Parking Zone Exhibit included in the excerpt of the Traffic and Parking Impact Study for Edwards Theater Triplex Addition (page 12).
6. That a valet parking plan shall be submitted to the City Traffic Engineer for review and approval prior to the continued use of the valet parking service.
7. That the hours of operation shall be limited to 5:00 a.m. to 2:00 a.m. daily, unless an amended use permit is approved by the Planning Commission.
8. That the area outside of the food establishment, including the public sidewalks or walkways, shall be maintained in a clean and orderly manner. That the operator shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.

9. That all trash areas and mechanical equipment shall be shielded or screened from public streets and adjoining properties overlooking the restaurant and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
10. That kitchen exhaust fans shall be installed in accordance with the Uniform Mechanical Code and approved by the Building Department. That issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
11. That where grease may be introduced into the drainage systems, grease interceptors shall be installed on all fixtures as required by the Uniform Plumbing Code, unless otherwise approved by the Building Department.
12. That a covered wash-out area for refuse containers and kitchen equipment shall be provided and the area shall drain directly into the sewer system unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternative drainage plan.
13. That storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
14. That all trash shall be stored within the building or within dumpsters stored in the trash enclosure, or otherwise screened from view of neighboring properties except when placed for pick-up by refuse collection agencies. That the trash dumpsters shall be fully enclosed and the top shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
15. That the applicant shall maintain the trash dumpsters or receptacles so as to control odors which may include the provision of fully self contained dumpsters or may include periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department.
16. That a Live Entertainment Permit and a Cafe Dance Permit shall be approved by the Revenue Division, in accordance with procedures set forth in Chapter 5 of the Municipal Code, to allow live entertainment and dancing as incidental and accessory to the primary use of the facility as a restaurant.
17. That the live entertainment and pre-recorded music shall be limited so that the sound shall be confined to the interior of the structure; and further that when the live entertainment is performed, all windows and doors within the facility shall be closed, except when entering and leaving by the main entrance of the facility. That the noise generated by the live entertainment shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than 55 dBA at any property line. That the applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the live entertainment to insure compliance with these conditions, unless otherwise approved by the Planning Director.

18. That any entertainment (live, disc jockey, etc.) provided shall not disturb any nearby business and shall not be audible outside of the building.
19. That the approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, as the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use. Further, that any event which is contemplated not to operate with the sale or service of food and beverages as the principal purpose (i.e., cocktail reception or mixer), shall be subject to the approval of a special event permit issued by the Revenue Division and approved by the Police Department. Said special event permit shall be completed and submitted to the Revenue Division at least 30 days prior to the date of the event (unless other arrangements are made with the City Departments), to allow adequate time for the Police Department and other City Departments to review the application and to impose additional conditions of approval.
20. That this approval shall not be construed as permission to allow concerts or a theater/nightclub use as defined by the Municipal Code, unless an amendment to this use permit is first approved by the Planning Commission.
21. That no outside event shall be conducted unless in conjunction with the service of food.
22. That the live entertainment shall not be allowed within the second floor deck or walkway areas.
23. That no temporary "sandwich" signs, balloons or similar temporary signs or attention attracting devices shall be permitted, either on-site (outside of the building) or off-site, to advertise the establishment, unless specifically permitted. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
24. That all signs shall conform to the provisions of Chapter 20.06 of the Municipal Code.
25. That the project shall be designed to minimize light and glare spillage onto adjacent properties or uses. That prior to issuance of a certificate of occupancy, the applicant shall demonstrate to the Planning Department that the exterior lighting system has been evaluated and the light sources redirected or shielded in such a manner as to conceal the light source and to minimize light spillage and glare to the adjacent properties. The plans shall be prepared and signed by a licensed Electrical Engineer acceptable to the City, with a letter from the engineer stating that, in his opinion, this requirement has been met.
26. That no outside paging system shall be utilized in conjunction with this facility.
27. That the project shall comply with State Disabled Access requirements.

28. That the building shall be fire sprinklered to the satisfaction of the Building and Fire Departments.
29. That the facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department
30. That the Planning Commission may add or modify conditions of approval to the use permit, or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit causes injury, or is detrimental to the health, safety, peace, morals, comfort or general welfare of the community.
31. That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

APPENDIX

Background

Based on the chronology of the development of Design Plaza, Muldoon's Irish Pub was the last building to be constructed within Design Plaza, with the exception of the Newport Theater Triplex Expansion. As determined by building records, the other buildings were constructed between 1972 and 1973 and the .

The construction of the existing building and restaurant facility was completed on November 25, 1974, prior to the requirement of a use permit for restaurants. The subject facility was only required to provide parking at a rate of one parking space for each 3 occupants. Based on Building Department Records, the subject restaurant required 30 parking spaces (89 persons ÷ 3 persons/parking space = 29.7 or 30 parking spaces). Building Department records do not reflect the approval of the exterior courtyard for dining purposes, therefore, the use of the outdoor dining area was nonconforming based on the original approved building plans and the lack of parking provided for its use. The outdoor dining area consisted of approximately 953 sq.ft. of "net public area", which would have required an additional 27 parking spaces based on an occupancy of 81 persons (as indicated in the current posting). The original owners of Muldoon's Irish Pub have indicated that the courtyard dining area has been utilized since the restaurant opened in 1974. Staff has not received any complaints regarding the existing operation and has not observed any parking problems associated with the existing use.

MARK H. SINGER, AIA, ARCHITECT

January 14, 1997

Javier Garcia
Senior Planning
Planning Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

Re: Muldoon's Irish Pub & Restaurant

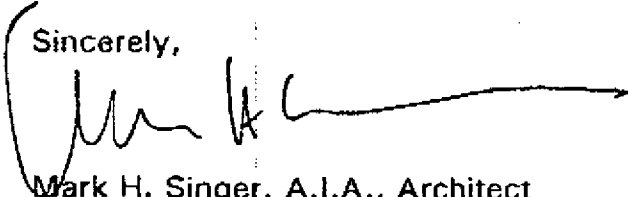
Dear Mr. Garcia:

In response to your request for more specific information regarding the entertainment and dancing proposed for Muldoon's Irish Pub and Restaurant, please review the following.

1. Music and dancing will occur in the dining rooms for private parties and in the pub areas as well as the courtyard.
2. Musical groups will consist of up to four musicians with acoustic or lightly amplified music intended only to be heard within the confines of the premises.

If you need additional information, please feel free to contact me.

Sincerely,



Mark H. Singer, A.I.A., Architect

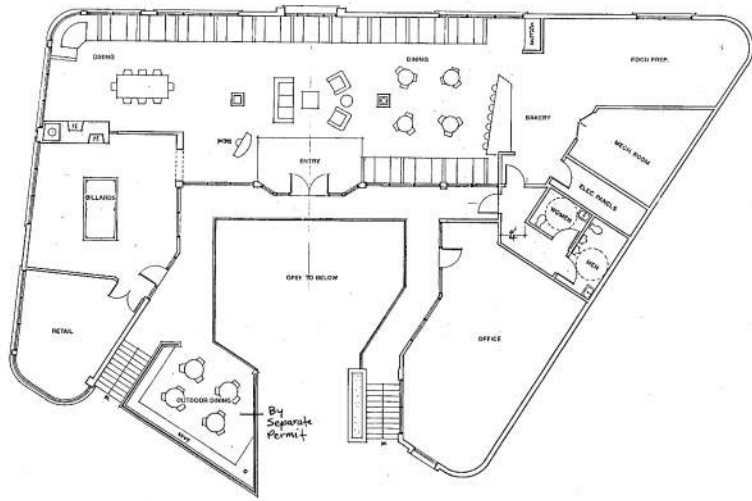
MARK H. SINGER & ASSOCIATES

384 FOREST AVE. SUITE 22A, LAGUNA BEACH, CA. 92651 714 494 7344

City of Newport Beach

TOTAL P.01

19



City of Newport Beach
 SECOND FLOOR PLAN Seating Plan
 A-2.1

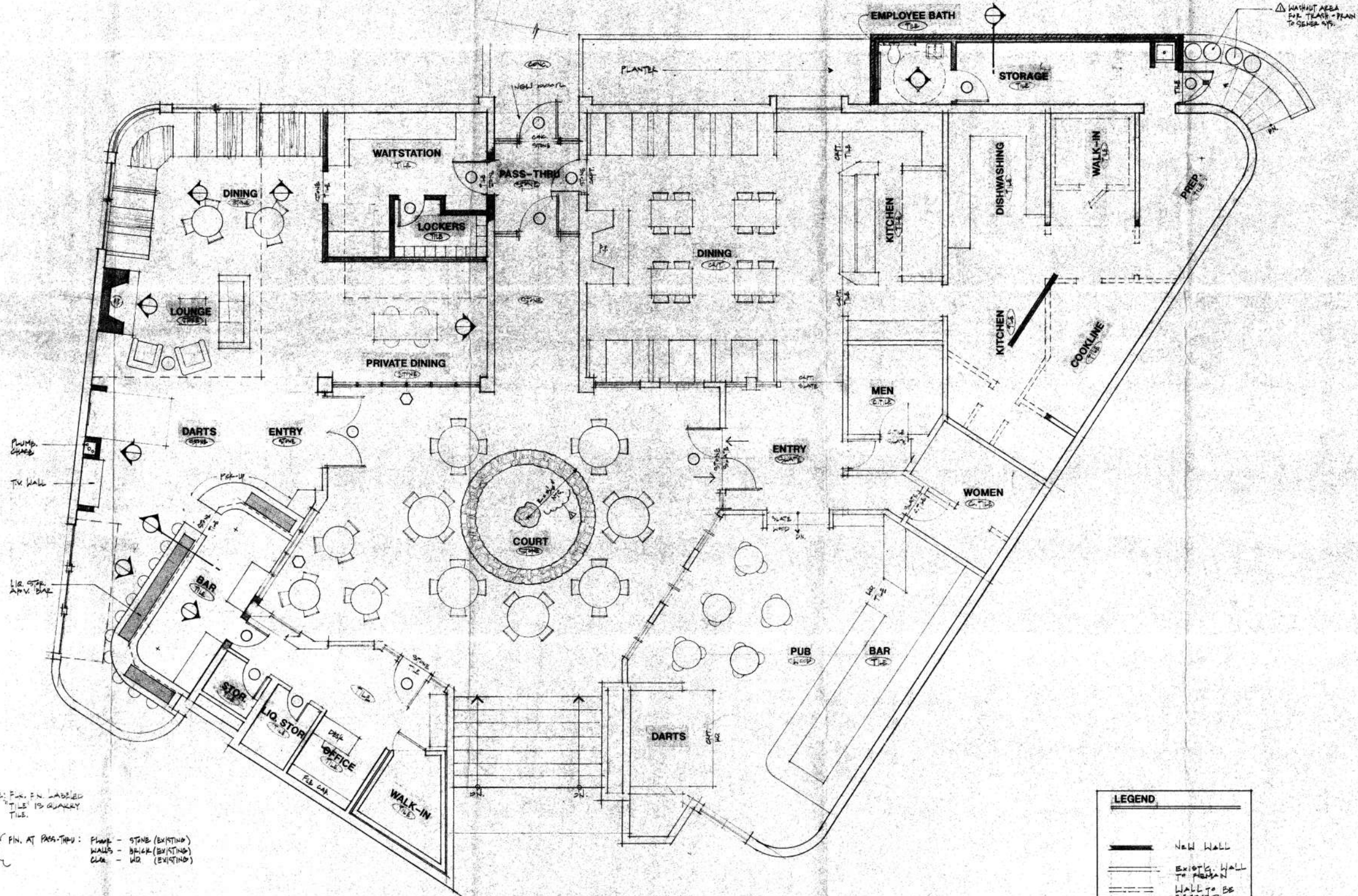
MARK N. SINGER, AIA ARCHITECTS
 100 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA 92660
 (949) 461-1111
 www.mnsinger.com

MULDOON'S IRISH PUB & RESTAURANT
 100 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA

A-2.1

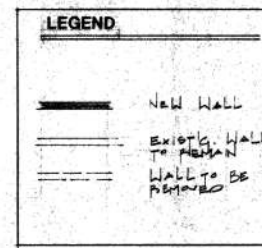
NEWPORT CENTER DRIVE

ANACAPA DRIVE



NOTE: FIN. IN LABELED TILE IS QUARRY TILE.

FIN. AT PASS-THRU: FLOOR - STONE (EXISTING)
WALLS - BRICK (EXISTING)
CEILING - W.G. (EXISTING)



City of Newport Beach

GROUND FLOOR PLAN

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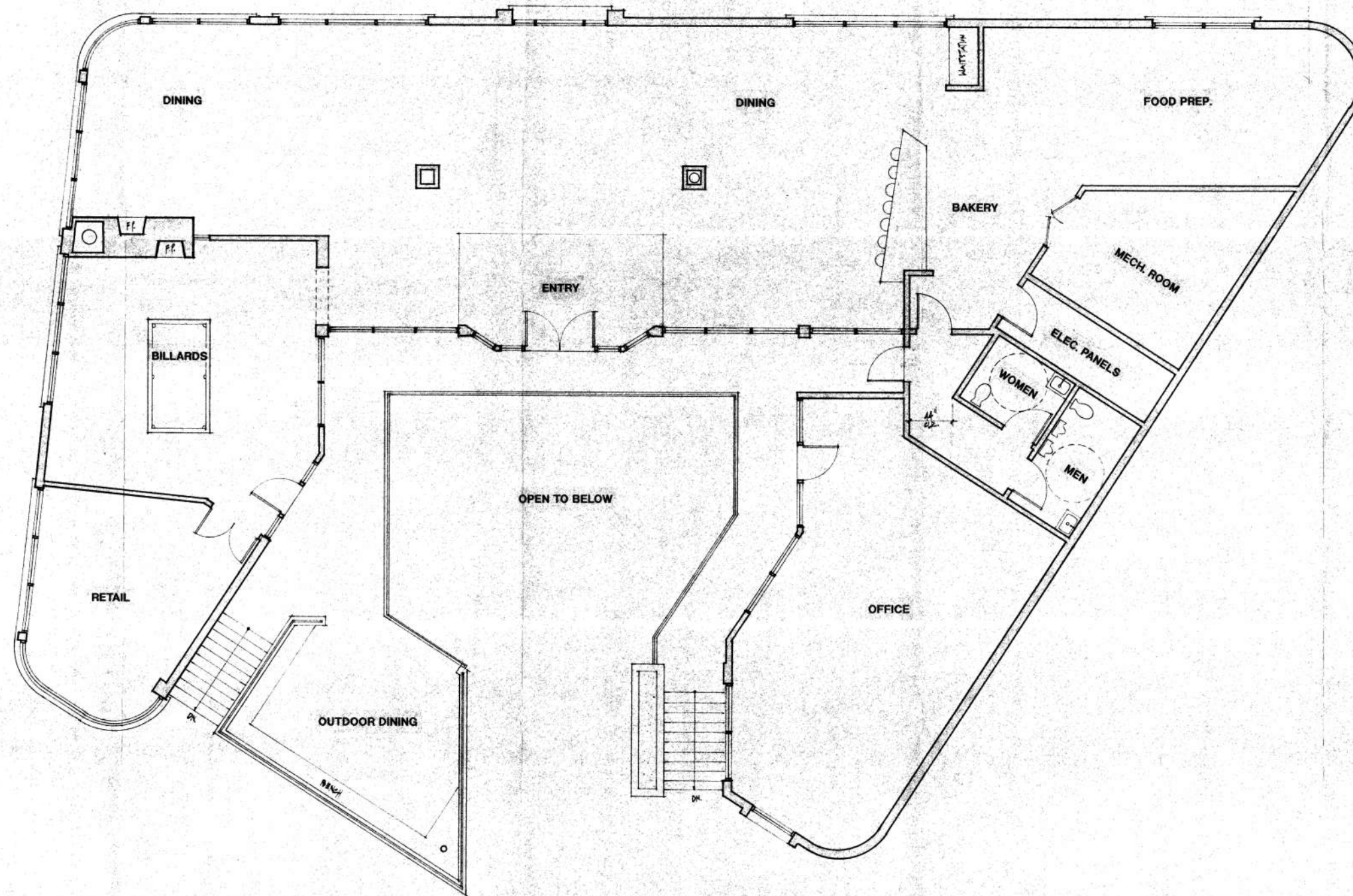
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 Project title: **ADDITION**
 Project address: **202 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA**

MARK H. SINGER, AIA ARCHITECTS
 361 Forest Ave. Suite 223, Laguna Beach, CA 92651 714 494-7344

Drawing title: **MULDOON'S IRISH PUB & RESTAURANT**
 Project title: **ADDITION**
 Project address: **202 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA**

Drawing title: _____
 Project title: _____
 Project address: _____

Scale: 1/4" = 1'-0"
 Date: _____
 Sheet: **A-2**



City of Newport Beach

SECOND FLOOR PLAN PROPOSED FUTURE EXPANSION

1

MARK H. SINGER, AIA ARCHITECTS

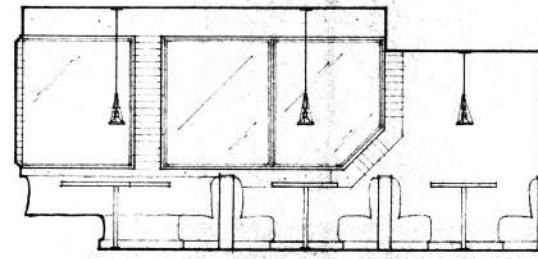


MULDOON'S IRISH PUB & RESTAURANT addition

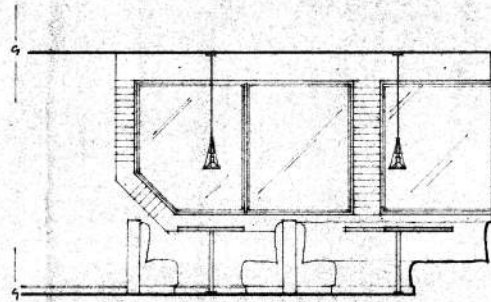
202 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA

1/4" = 1'-0"

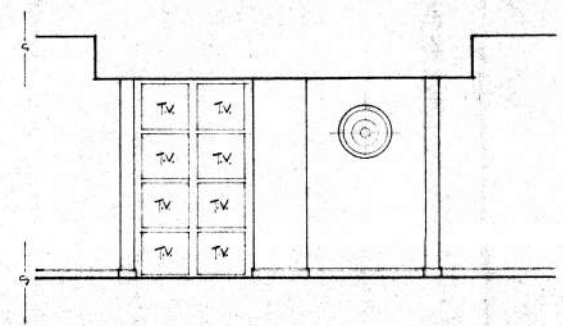
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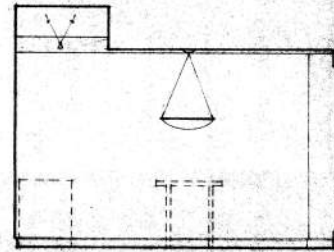
BOOTH SEATING @ DINING RM.



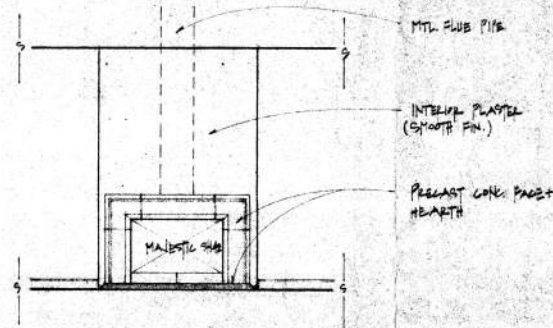
BOOTH SEATING @ DINING RM.



T.V. / DART WALL

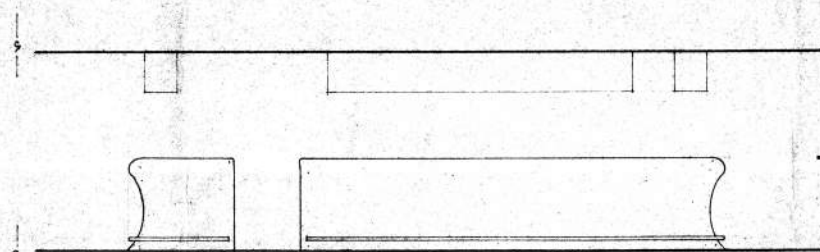


PRIVATE DINING RM.

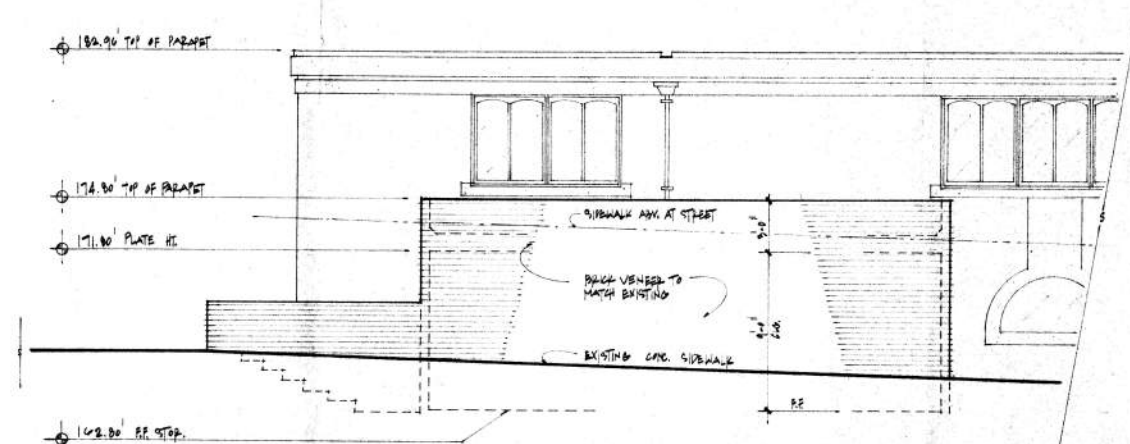


FIREPLACE

MTL. FLUE PIPE
 INTERIOR PLASTER
 (SMOOTH FIN.)
 PRECAST CONCR. PAINT
 HEARTH



BAR FRONT



11 PARTIAL NORTH ELEVATION PROPOSED STORAGE ADDITION
 1/4"=1'-0"

City of Newport Beach

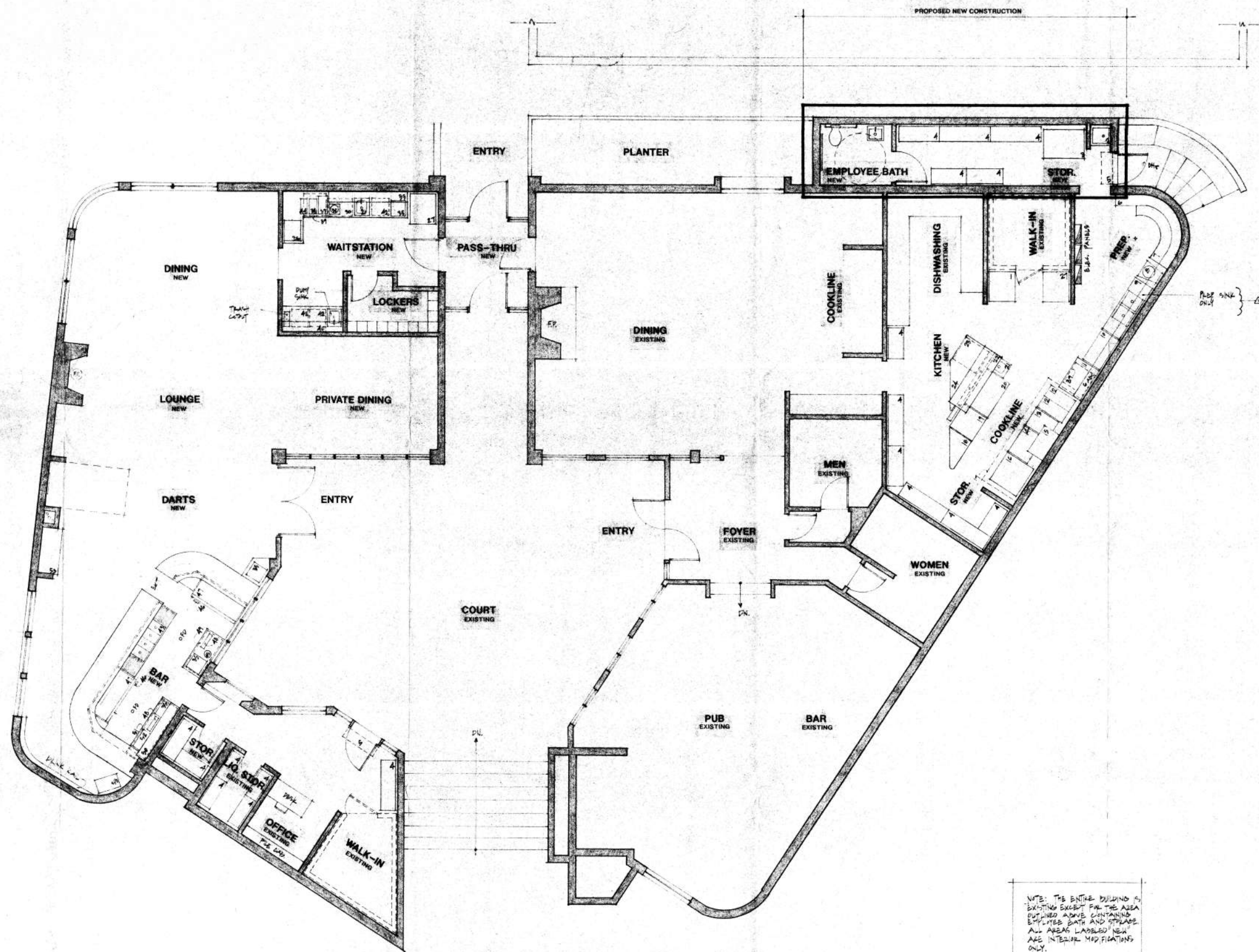
MARK H. SINGER, AIA ARCHITECTS



MULDOON'S IRISH PUB & RESTAURANT addition

202 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA

Drawing Title	PROJECT TITLE
Job No.	PROJECT ADDRESS
Drawn	
Scale	3/8" = 1'-0"
Date	



HEALTH DEPT. 10-21-96

MARK H. SINGER, AIA ARCHITECTS

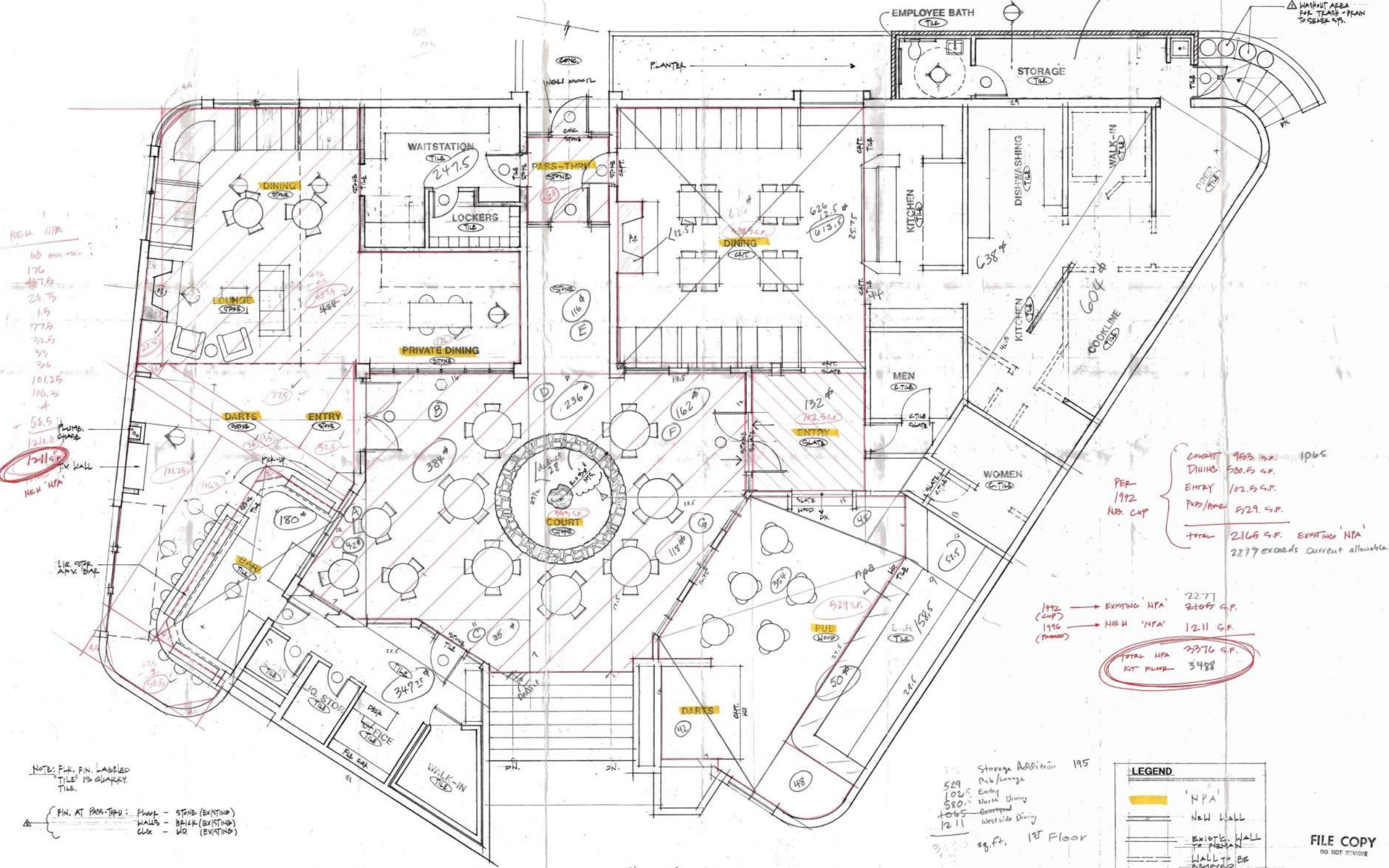


MULDOON'S IRISH PUB & RESTAURANT

202 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA

NOTE: THE ENTIRE BUILDING IS EXISTING EXCEPT FOR THE AREA OUTLINED ABOVE CONTAINING EMPLOYEE BATH AND STAIRS. ALL AREAS LABELED 'NEW' ARE INTERIOR MODIFICATIONS ONLY.

195' addition



- NEW NPA
- 60
 - 176
 - 187.9
 - 23.75
 - 1.9
 - 177.6
 - 32.5
 - 33
 - 36
 - 101.25
 - 106.25
 - 4
 - 58.5
 - 1211.0
 - 1711.0

CONCRETE 193 S.F. 1965
 DINING 500.5 S.F.
 ENTRY 102.5 S.F.
 PUB/BAR 529 S.F.
 TOTAL 2166 S.F. EXISTING NPA
 2277 exceeds current allowable

1992 (CUP) → EXISTING NPA 2277 S.F.
 1996 (PUB) → NEW NPA 1211 S.F.

TOTAL NPA 3488 S.F.
 KIT FLOOR 3488

NOTE: FLR. FIN. LABELED
 TILE IS QUARRY
 TILE.

FIN. AT PASS-THRU: FLOOR - STONE (EXISTING)
 WALLS - BRICK (EXISTING)
 CLK - WD. (EXISTING)

Gross sq. ft.

180
347
638
604
151.5
52.5
247.5
2227.5
195
2422.5

Courtyard

A	42
B	384
C	35
D	236
E	116
F	162
G	118
1093	
28	
1065 sq. ft.	

Storage Addition 195
 Pub/Lounge 529
 Entry 102.5
 North Dining 580.5
 Courtyard 1065
 Westside Dining 1211
 3300 sq. ft. 1st Floor

4649.5 gross sq. ft.
 1065.0 courtyard

LEGEND

[Yellow Box]	NPA
[Red Line]	NEW WALL
[Dashed Line]	EXISTING WALL TO REMAIN
[Dotted Line]	WALL TO BE REMOVED

FILE COPY
 DO NOT REMOVE

4844 1st Floor
 4322 2nd Floor
 8771 9166
 1065
 10231

City of Newport Beach

GROUND FLOOR PLAN

Revisions

1	ZONING 10-28-96
2	HEALTH 10-28-96

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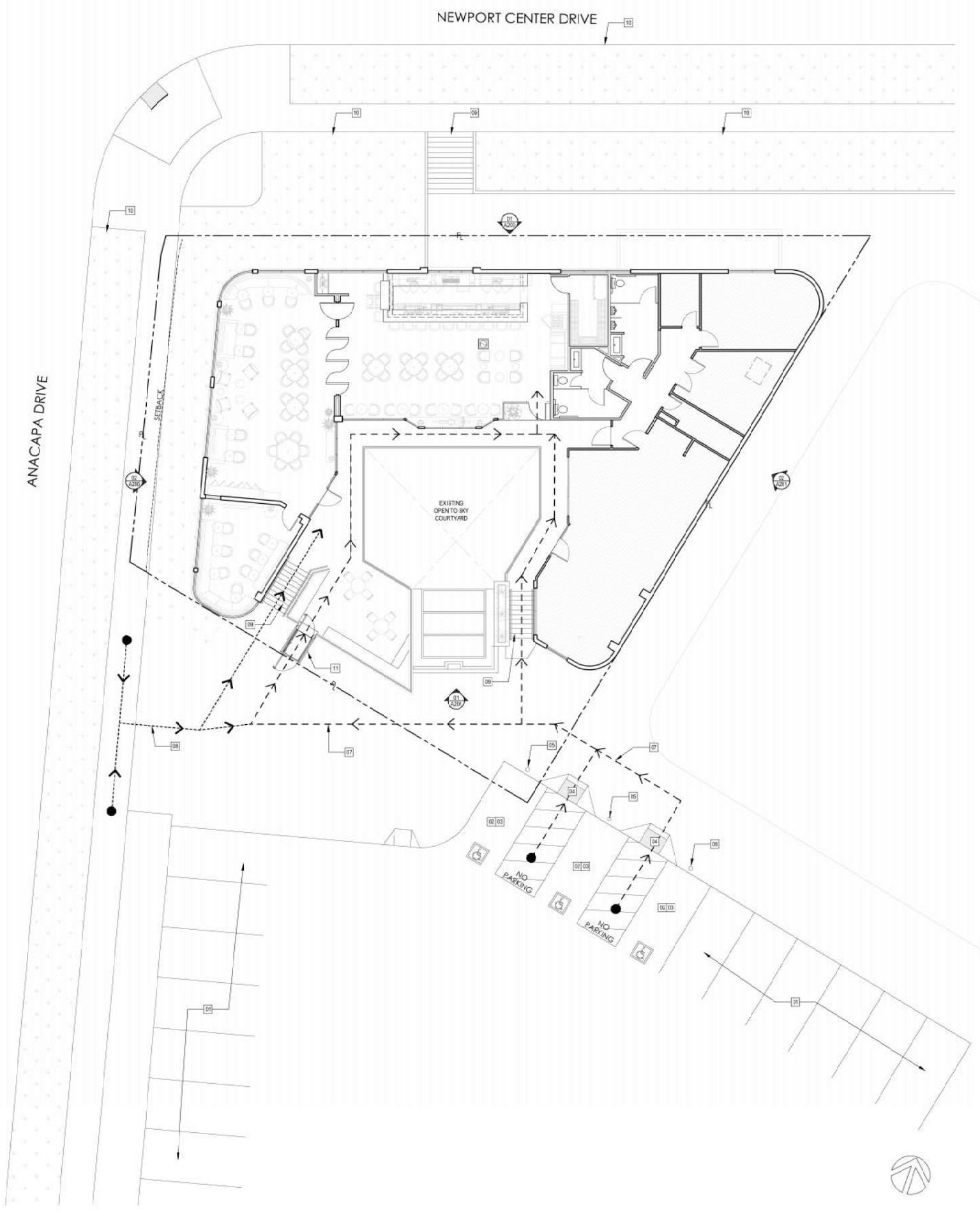
MARK H. SINGER, AIA ARCHITECTS
 384 Forest Ave. Suite 22A, Laguna Beach, Ca. 92651 714 494-7344

MULDOON'S IRISH PUB & RESTAURANT addition
 "NPA" CALC'S.
 202 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA

Drawing Title	
Project Title	
Project Address	
Job no.	
Drawn	
Scale	1/4" = 1'-0"
Date	
Sheet	A-2

Attachment No. CD 4

Project Plans



- 01 EXISTING STANDARD PARKING STALL
- 02 EXISTING ACCESSIBLE PARKING STALL
- 03 EXISTING INTERNATIONAL SYMBOL OF ACCESSIBILITY MARKING TO REMAIN
- 04 EXISTING TRUNCATED DOME DETECTABLE WARNING DEVICE TO REMAIN
- 05 EXISTING VAN ACCESSIBLE PARKING SPACE SIGN TO REMAIN
- 06 EXISTING STAND ACCESSIBLE PARKING SPACE SIGN TO REMAIN
- 07 EXISTING ACCESSIBLE PATH OF TRAVEL FROM ADA PARKING STALLS
- 08 EXISTING ACCESSIBLE PATH OF TRAVEL FROM PUBLIC WAY
- 09 EXISTING EXTERIOR STAIR
- 10 EXISTING LANDSCAPING
- 11 (N) WHEEL CHAIR LIFT BY CLARITY

r h a
 robinson hill architecture, inc.
 A California Corporation
 3155-B Airport Loop, #2
 Costa Mesa, CA 92626
 tel. 714-825-8888
 fax 714-825-8888
 web www.rhainc.net

Michael David Robinson C-20721
 John Stevens Hill C-23551

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Owner


Consultant

Stamp


Submit Dates
 STAFF REVIEW SUB. 01.19.24

Rev.	Description	Date
1	STAFF RE-SUBMITTAL	01.08.24

Project info. Address

MULDOON'S IRISH PUB
 202 NEWPORT CENTER DR.
 NEWPORT BEACH, CA 92660




Staff Review
 Sheet Title

PROPOSED SITE PLAN

Job Number:
 21RHA-035
 Date:
 12.08.2023
 Sheet No.:

ST0.1

KEY NOTES

-  EXISTING TO REMAIN (NOT IN SCOPE)
-  ACCESSIBLE PATH OF TRAVEL FROM PUBLIC WAY
-  ACCESSIBLE PATH OF TRAVEL FROM ADA PARKING STALLS

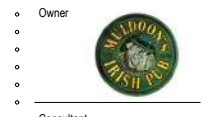
LEGEND

- 1. CBC 119.201.7 & 7.1 PLATFORM LIFTS SHALL BE PERMITTED AS A ACCESSIBLE ROUTE IN AN EXISTING BUILDING TO 2ND FLOOR.

NOTES

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Submission Dates
 STAFF REVIEW SUB. 01.19.24
 STAFF REVIEW RE-SUB. 03.15.24

Rev. Description Date
 STAFF RE-SUBMITTAL 03.15.24

Project Info. Address

MULDOON'S IRISH PUB
 202 NEWPORT CENTER DR.
 NEWPORT BEACH, CA 92660

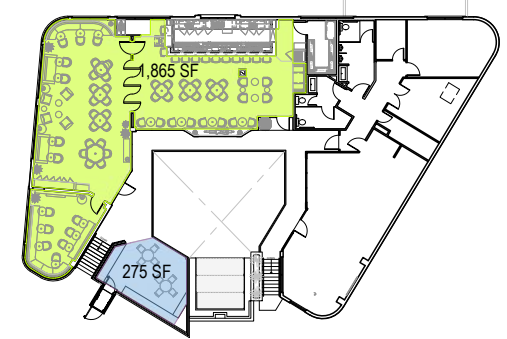
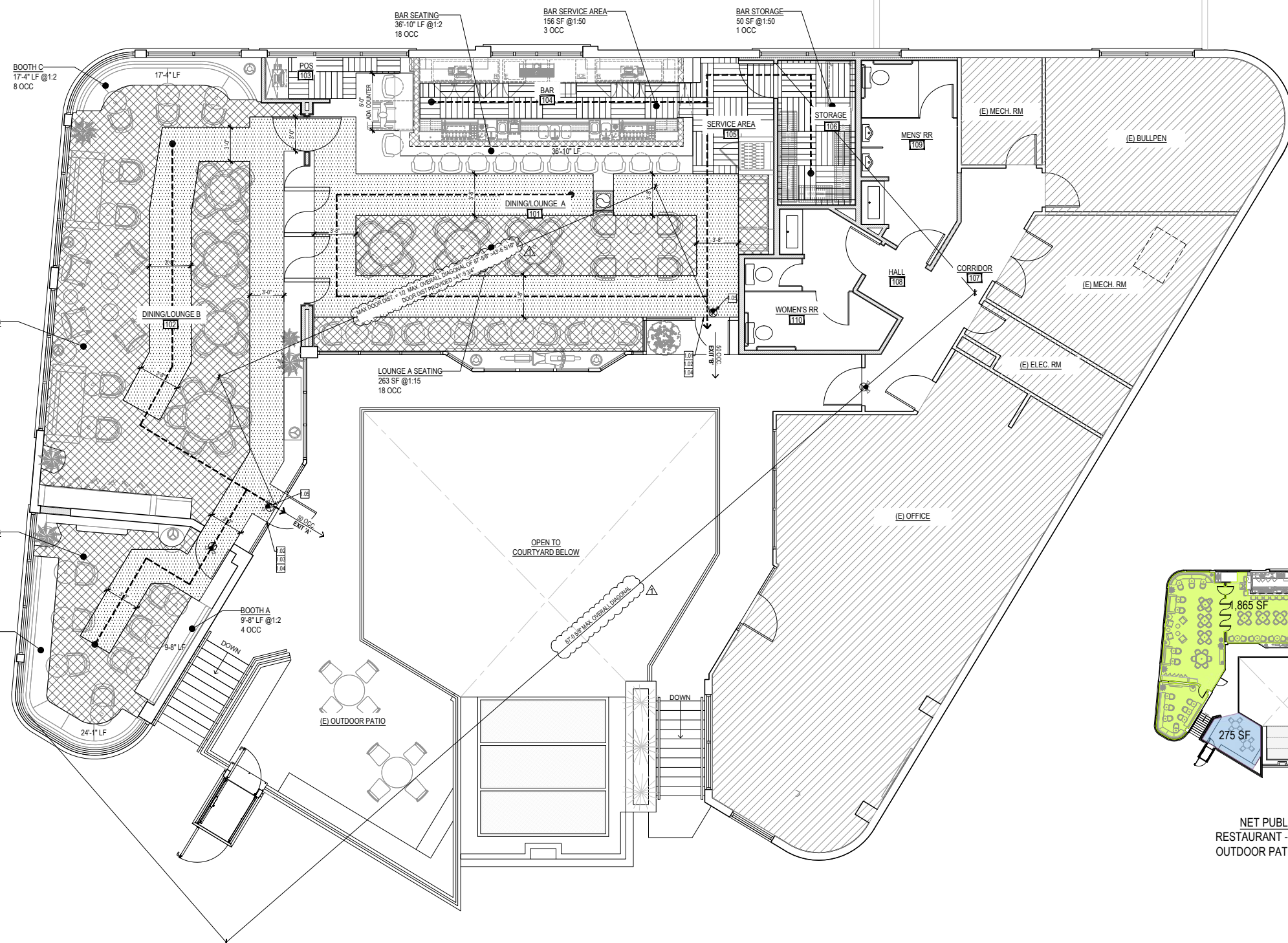
Staff Review

Sheet Title

2ND FLOOR EXIT ANALYSIS & NET PUBLIC AREA PLAN

Job Number: 21RHA1035
 Date: 12.08.2023
 Sheet No.:

A101



NET PUBLIC AREA
 RESTAURANT - 1,865 SF
 OUTDOOR PATIO - 275 SF

OCCUPANCY TABULATIONS			FIXTURES COUNT			
USE GROUP AREA	LOAD FACTOR CPC TABLE A	OCCUPANT LOAD	REQUIRED MEN	REQUIRED WOMEN	PROVIDED MEN	PROVIDED WOMEN
DINING 'A' = 825 S.F. GROSS			1	2		
DINING 'B' = 1,112 S.F. GROSS			2	2		
USE GROUP 'A-2' TOTAL DINING 'A' & 'B' = 1,937 S.F.	30	65				
(E) USE GROUP 'B' = 1,228 S.F. GROSS	200	7				
(E) USE GROUP 'S' = 531 S.F. GROSS (STOR./UTILITY)	ACCESSORY	N/A				
TOTAL		72				
			MEN	36		
			WOMEN	36		

PLUMBING FIXTURE ANALYSIS

ROOM NO.	DESCRIP. AREA / AMF	USE	NET SF	OCC. FACTOR	OCC. LOAD
101	DINING & BAR SEATING	A-2	1937	0.1	194
102	LOUNGE B SEATING	B	1228	0.05	61
103	LOUNGE A SEATING	B	263	0.05	13
104	BAR SEATING	A-2	180	0.1	18
105	POS	A-2	20	0.1	2
106	BAR SERVICE AREA	A-2	156	0.05	8
107	BAR STORAGE	A-2	50	0.05	2
108	SERVICE AREA	S	105	0.05	5
109	STORAGE	S	105	0.05	5
110	MENS' RR	M	10	0.05	1
111	WOMEN'S RR	F	10	0.05	1
112	HALL	S	10	0.05	1
113	CORRIDOR	S	10	0.05	1
114	(E) MECH. RM	M	10	0.05	1
115	(E) BULLPEN	M	10	0.05	1
116	(E) MECH. RM	M	10	0.05	1
117	(E) ELEC. RM	M	10	0.05	1
118	(E) OFFICE	M	10	0.05	1
119	(E) OUTDOOR PATIO	P	275	0.05	14
120	OPEN TO COURTYARD BELOW				
TOTAL					146
SUB TOTAL					146

OCCUPANCY TABULATION

PROPOSED 2ND FLOOR EXIT ANALYSIS & NET PUBLIC AREA PLAN 1/4" = 1'-0" 01

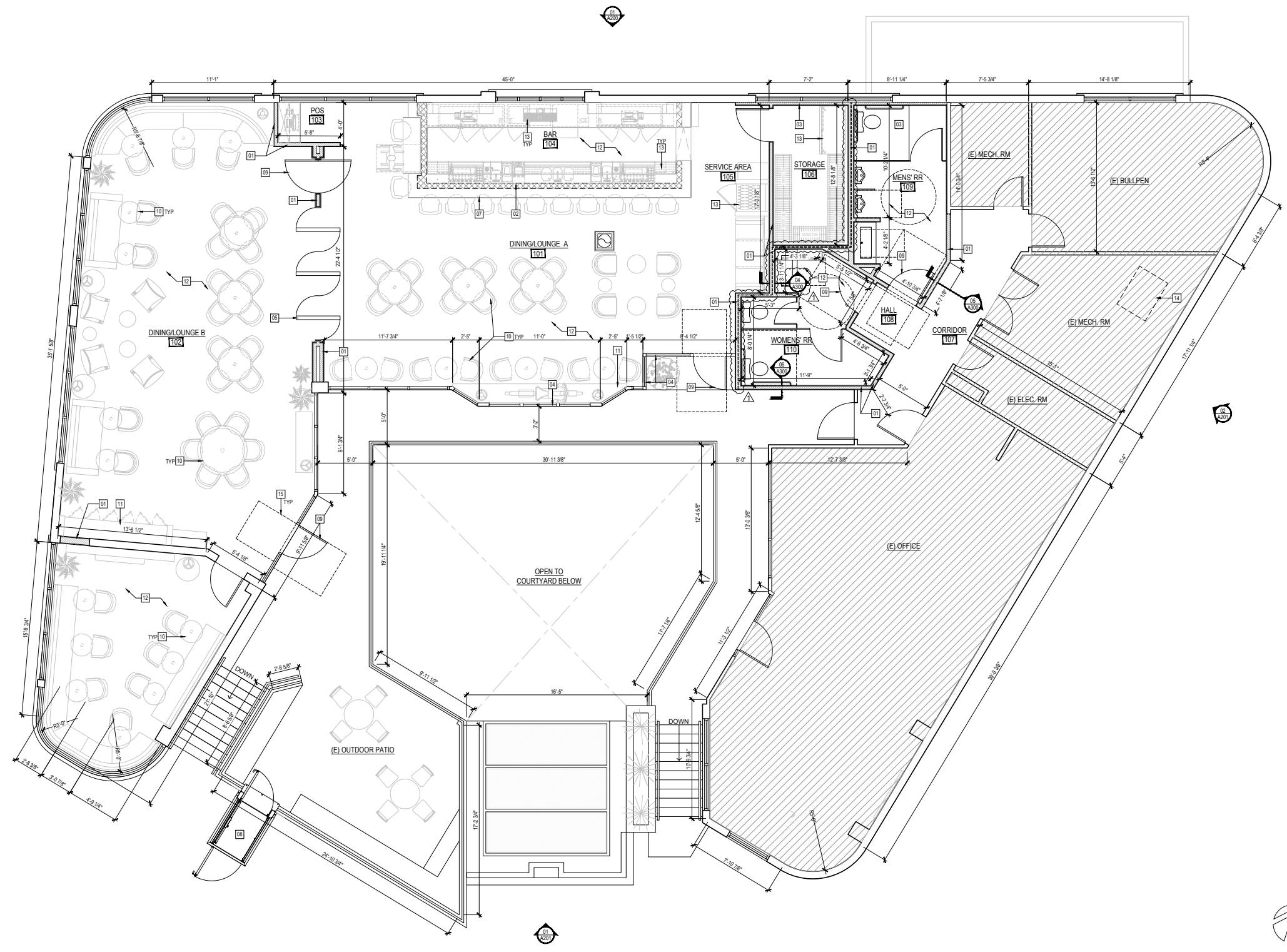
- 1.01 PROVIDE A SIGN ABOVE THE DOOR THAT READS 'THIS DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS' PER CBC 1010.1.9.3.
- 1.02 EXISTING EXIT DOOR TO REMAIN
- 1.03 NEW PANIC HARDWARE
- 1.04 OCCUPANT LOAD OF 50 OR MORE SHALL HAVE A THE OCCUPANT LOAD OF THE ROOM OR SPACE POSTED IN A CONSPICUOUS PLACE, NEAR THE MAIN EXIT OR EXIT ACCESS DOORWAY FROM THE ROOM OR SPACE. CFC 1004.3
- 1.05 NEW EXIT SIGN WITH BATTERY BACKUP/EMERGENCY LIGHT

LEGEND

- EXISTING TO REMAIN (NOT IN SCOPE)
- NEW INTERIOR NPA (1,865 SF)
- EXISTING SECOND FLOOR PATIO (275 SF)
- ACCESSIBLE EGRESS PATH OF TRAVEL
- UNCONCENTRATED BAR OCC. LOAD FACTOR 1:15
- SERVICE AREA OCC. LOAD FACTOR 1:50
- EXIT TRAVEL PATH
- EXIT SIGN

KEY NOTES

LEGEND

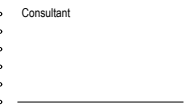


robinson hill architecture, inc.
 A California Corporation
 3195-B Airport Loop Dr.
 Costa Mesa, CA 92626
 tel. 714-825-8888
 fax 714-825-8889
 web www.rharc.com

Michael David Robinson: C-20731
 John Steven Hill: C-23553

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Submission Dates
 STAFF REVIEW SUB. 01.19.24
 STAFF REVIEW RE-SUB. 03.15.24

Rev.	Description	Date
1	STAFF RE-SUBMITTAL	03.15.24

Project Info. Address

MULDOON'S IRISH PUB
 202 NEWPORT CENTER DR.
 NEWPORT BEACH, CA 92660

PROPOSED 2ND FLOOR PLAN 1/4" = 1'-0" 01

- WHERE DINING SURFACES ARE PROVIDED FOR CONSUMPTION OF FOOD OR DRINK, AT LEAST 5% OF THE EACH TYPE OF SEATING SPACES, AND STANDING SPACED AT THE DINING SURFACES SHALL COMPLY WITH BUILT-IN ELEMENT REQUIREMENTS LISTED UNDER SECTION 11B-902. (11B-226.1).
- MULTIPLE USER RESTROOMS SHALL COMPLY WITH CBC 11B-603.

- 01 (N) FRAMED WALL
- 02 (N) LOW BAR WALL
- 03 (N) WOOD STUD FURRING WALL
- 04 (N) WOOD STOREFRONT TO MATCH EXISTING ADJACENT
- 05 (N) OPERABLE PARTITIONS
- 06 (N) DINING ROOM SEATING THROUGHOUT
- 07 (N) BAR
- 08 (N) WHEEL CHAIR LIFT
- 09 (N) DOOR
- 10 (N) LOOSE FURNITURE
- 11 (N) BUILT IN MILLWORK
- 12 (N) FLOORING THROUGH OUT
- 13 (N) KITCHEN EQUIPMENT

- 14 LINE OF EXIST ROOF LADDER ACCESS HATCH ABOVE
- 15 DOOR MANEUVERING CLEARANCES SHALL COMPLY WITH CBC TABLE

LEGEND

- EXISTING TO REMAIN (NOT IN SCOPE)
- (E) WOOD STUD WALL TO REMAIN
- (N) 2X WOOD STUD WALL
- (N) PRE MANUFACTURED LOW BAR WALL
- (1 HR RATED) (LL LUIS - 3/8" TYPE 3" GYP BOARD W/ 1/2" RESILIENT CHANNEL O/ 2X6 STUD @ 16" O.C. W/ 6-1/4" THICK FIBERGLASS INSULATION

NOTES

KEY NOTES

LEGEND

PROPOSED 2ND FLOOR PLAN

Job Number:
21RHA1035
Date:
12.08.2023
Sheet No.:

A104

robinson hill architecture, inc.
 A California Corporation
 3195-B Airport Loop Dr.
 Costa Mesa, CA 92626
 tel. 714-825-8888
 fax 714-825-8889
 web www.rhainc.net

Michael David Robinson: C-20731
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Consultant



Submittal Dates
 STAFF REVIEW SUB. 01.19.24
 STAFF REVIEW RE-SUB. 03.15.24

Rev.	Description	Date
1	STAFF RE-SUBMITTAL	03.15.24

Project Info. Address

MULDOON'S IRISH PUB
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 NEWPORT BEACH, CA 92660

Staff Review

Sheet Title

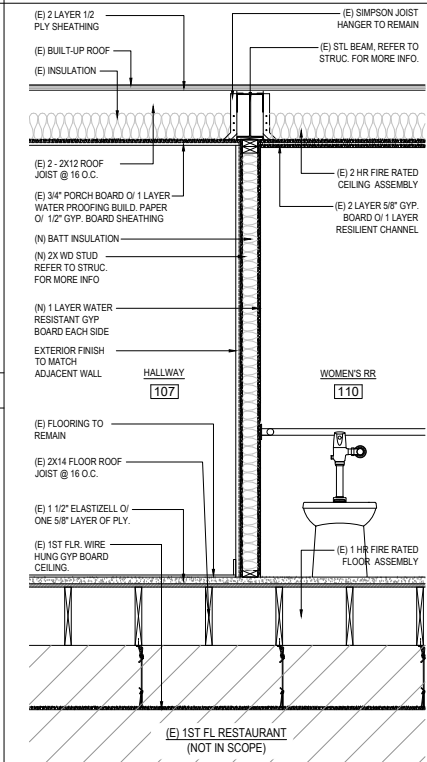
WALL SECTIONS

Job Number:
21RHA1035

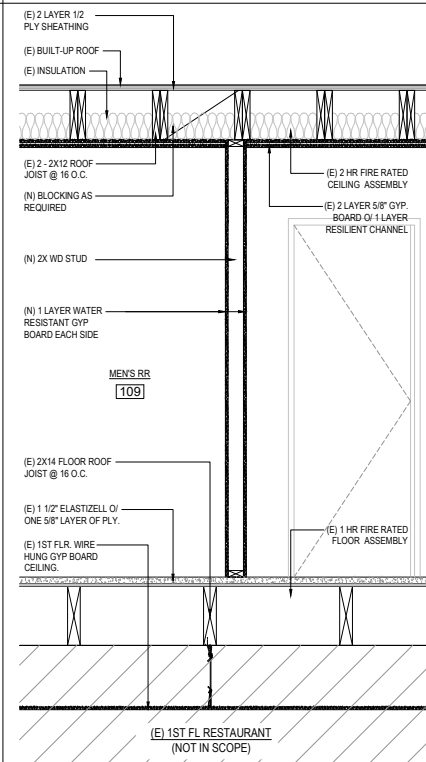
Date:
12.08.2023

Sheet No.:

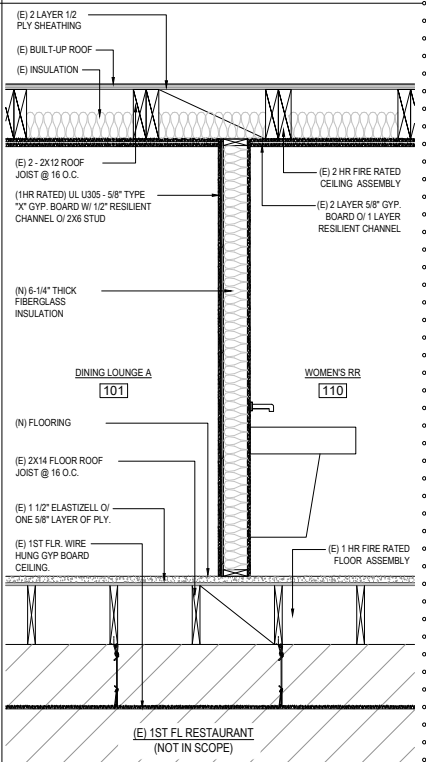
A300



ENLARGE WALL SECTION 4 SCALE: 3/4" = 1'-0" 06



ENLARGE WALL SECTION 3 SCALE: 3/4" = 1'-0" 05



ENLARGE WALL SECTION 2 SCALE: 3/4" = 1'-0" 04