



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 Zoning Administrator and/or Community Development Director for the week ending September 13, 2024.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS SEPTEMBER 13, 2024

Item 1: ARDR Realty, LLC Residence Coastal Development Permit (PA2024-0085)
Site Address: 1105 North Bay Front

Action: Approved by Resolution No. ZA2024-051 Council District 5

Item 2: Podley Residence Coastal Development Permit (PA2024-0134)
Site Address: 1504 & 1504 ½ South Bay Front

Action: Approved by Resolution No. ZA2024-052 Council District 5

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

Item 1: Little Billy's Staff Approval for Substantial Conformance (PA2024-0011)
Site Address: 2606 Avon Street

Action: Approved Council District 2

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*)

RESOLUTION NO. ZA2024-051

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT RESIDENCE AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT RESIDENCE AND ATTACHED TWO-CAR GARAGE LOCATED AT 1105 NORTH BAY FRONT (PA2024-0085)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison, concerning property located at 1105 North Bay Front, requesting approval of a coastal development permit.
2. The property at 1105 North Bay Front is legally described as Lot 18 in Block 17 Balboa Island Section 3.
3. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing single-unit dwelling and the construction of a new three-story, 2,792-square-foot, single-unit residence including an attached 403-square-foot two-car garage. The project complies with all applicable development standards and no deviations are requested. The project includes hardscape, walls, landscaping, and drainage facilities.
4. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential, Balboa Island (R-BI) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential – 30.0-39.9 DU/AC) and it is located within the Two-Unit Residential, Balboa Island (R-BI) Coastal Zone District.
6. A public hearing was held on September 12, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the new construction or conversion of small structures including the demolition and construction of a single-family home in a residential zone. The proposed project consists of the demolition of one single-family residence and the construction of a new 2,792-square-foot single-family residence including an attached 403-square-foot two-car garage and therefore qualifies within this exemption.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

By Section 21.52.015 (Coastal Development Permits - Findings and Decision) of the Newport Beach Municipal Code, the following findings, and facts in support of such findings are set forth:

Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 2,792 square feet and the proposed floor area is 2,792 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 8 feet along the front property line abutting public boardwalk, 3 feet along each side property line, and 5 feet along the rear property line abutting the alley.
 - c. The highest guardrail is less than 24 feet from the established grade (9.00 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences on Balboa Island.
2. The neighborhood is predominantly developed with two and three-story, single- and two-unit residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.

3. The project site is separated from the Bay by the public boardwalk and City owned bulkhead that is located outside of the property. A Coastal Hazards Report and Sea Level Rise Analysis were prepared by PMA Consulting, Inc. dated April 9, 2024, for the project. The maximum bay water elevation is 7.7 feet NAVD 88 (North American Vertical Datum of 1988 (NAVD 88) and may exceed the current top of bulkhead elevation of 8.6 feet NAVD 88 during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.2-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.9 feet NAVD 88 (the likely range for sea level rise over a 75-year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). As conditioned, a waterproofing curb or other waterproof material is required and proposed to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.9 feet (NAVD88). Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure.
4. Most of the streets on Balboa Island are approximately 6.5 feet (NAVD88), and the flooding of Balboa Island is an existing coastal hazard. The public boardwalk is continuous and provides public access around the entire island including Little Balboa Island. A new or higher shoreline protective device is not currently needed to protect the proposed structure, but it is already necessary to protect the existing buildings, streets, and boardwalk. The existing bulkhead is owned by the City of Newport Beach and the adjacent property owner is not able to increase the height of the bulkhead as part of this CDP. If the City adopts the comprehensive sea level rise adaptation strategies to protect the public streets and public access areas, then the property owner will also be protected as a result. As a condition of approval, the property owner will be required to waive their rights to future protection devices.
5. The finished floor elevation of the proposed single-family residence is 9.0 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD 88) will not exceed the proposed flood protection curb around the single-family residence at 10.9 feet (NAVD 88) for the anticipated 75-year life of the structure.
6. Under NBMC Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection), the property owner will be required to agree with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). This requirement is included as a condition of approval that will need to be satisfied before the final building permit inspection.
7. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) (General Site Planning and Development Standards). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits.

8. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved before the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC before building permit issuance.
9. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
10. Under Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Thomas M. Ruiz dated, April 29, 2024. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs.
11. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
12. The project site is not located adjacent to a coastal view road or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoints and coastal view roads are approximately 550 feet east on the Marine Avenue bridge; approximately 730 feet north across the bay on Bayside Drive; and approximately 950 feet north across the bay at the end of Harbor Island Drive and the Balboa Yacht Basin Marina. The project site is adjacent to the public boardwalk surrounding the island. However, the proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
13. The front and side of the proposed residence, which are visible from the public boardwalk and bay, contains substantial architectural treatment and visual interest, in keeping with the design guidelines of the Zoning Code. The design includes modulation of volume throughout the structure, an increased front setback on the first floor along the public boardwalk beyond what is required by code, and low walls that prevent the appearance of the site from being walled off from the boardwalk and bay. Therefore, the

project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on existing public views.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a standard R-BI lot with a new single-family residence. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical access to the Bay Front public boardwalk and Newport Bay is available approximately 60 feet west of the property at the terminus of Apolena Avenue and the boardwalk; and approximately 90 feet east at the terminus of the Amethyst Avenue and the boardwalk. Lateral access is available along the public boardwalk adjacent to the waterfront around Balboa Island. The project does not include any features that would obstruct access along these routes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit filed as PA2024-0085, subject to the conditions outlined in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director by the provisions of Title 21 Local Coastal Program (LCP) Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14

California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF SEPTEMBER 2024.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Before issuance of building permits, a waterproofing curb or similar design feature shall be constructed around the proposed residence as an adaptive flood protection device up to a minimum of 10.9 feet (NAVD88). Flood shields (sandbags and other methods) can be deployed across the openings to protect and prevent flooding to the structure.*
3. *Before the final building permit inspection, an agreement in a form approved by the City Attorney, the property owner, and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
4. *Before the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify 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 the development. This letter shall be scanned into the plan set before building permit issuance.*
5. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:

- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
- 8. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
 - 9. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
 - 10. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
 - 11. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
 - 12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
 - 13. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
 - 14. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
 - 15. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.

16. *Before the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
17. *Before the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
18. *Before issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
19. *Before the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
20. *Before issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
21. All landscape materials and irrigation systems shall be maintained by the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
22. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
23. Before the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
24. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
25. This Coastal Development Permit PA2024-0085 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.

26. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the 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 ARDR Realty LLC, Residence including but not limited to, Coastal Development Permit (PA2024-0085). 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, which the 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 under the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2024-052

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING TWO-UNIT DWELLING UNIT AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT DWELLING AND JUNIOR ACCESSORY DWELLING UNIT AND AN ATTACHED TWO-CAR GARAGE LOCATED AT 1504 BAY FRONT SOUTH (PA2024-0134)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison, Architect, on behalf of the owner, Bill Podley, with respect to property located at 1504 and 1504 ½ South Bay Front, and legally described as Lot 3, Block 1 of the Section 5 Balboa Island Tract, requesting approval of a coastal development permit.
2. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing duplex and the construction of a new 2,502 square-foot, three-story, single-unit dwelling, and an attached 397-square-foot, two-car garage, with 269 square feet of the dwelling designated as a junior accessory dwelling unit (JADU). The project includes landscape, hardscape, drainage, and accessory structures all within the confines of the property. The project complies with all development standards and no deviations are requested (Project).
3. The subject property is categorized as RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-BI (Two-Unit Residential, Balboa Island) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential) - (30.0 – 39.9 DU/AC) and it is located within the R-BI (Two-Unit Residential, Balboa Island) Coastal Zoning District.
5. A public hearing was held on September 12, 2024, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition and construction of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of an existing duplex with an attached garage and the construction of a new 2,502-square-foot, three-story, single-unit dwelling, an internal 269-square-foot JADU and an attached 397-square-foot, two-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015(F) (Coastal Development Permits - Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

Finding:

A. Conforms to all applicable sections of the certified Local Coastal Program.

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 2,900 square feet. The total proposed structure floor area complies with a 2,502-square-foot principal dwelling unit, including a 269-square-foot internal JADU, and a 397-square-foot, two-car garage.
 - b. The proposed development provides the minimum required setbacks, which are five feet along the rear property abutting Bay Front Alley South, three feet along each side property line, and five feet along the front property line abutting the Bay Front South and the Bay.
 - c. The highest flat roof/guardrail is below 24 feet from established grade, or 33 feet based on the North American Vertical Datum of 1988 (NAVD 88), and the highest ridge is no more than 29 feet from established grade (38 feet NAVD 88). The proposed development complies with all height requirements.
 - d. The proposed development provides a two-car garage, meeting the minimum two-car garage requirement for a single-family residence with less than 4,000 square feet of habitable floor area. No parking is required for the JADU.

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- e. The proposed lowest finished floor elevation of the new residence is 9.0 feet (NAVD 88), which complies with the minimum 9.0-foot top of slab elevation requirement for interior living areas of new structures.
 - f. The JADU complies with the maximum floor area, parking, height, and setback provisions of the NBMC. A deed restriction is required to be recorded with the County Recorder's Office per Section 21.48.200(l) (Accessory Dwelling Units – Deed Restriction and Recordation Required) of the NBMC. The deed restriction requirement is included as Condition of Approval No. 5.
2. The neighborhood is predominantly developed with two-story and three-story single- and two-unit dwellings. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
 3. The Project proposes to demolish the existing duplex on-site to construct a single-unit dwelling and JADU. As a result, the Project complies with the Housing Crisis Act of 2019 and Senate Bill 8 (Skinner) because it does not result in the loss of residential density. The State Department of Housing and Community Development (HCD) has verified with the City in an email dated March 23, 2022, that a JADU is considered a housing unit under Government Code Section 66300 provisions to replace existing units. The Property Owner has certified that the units are not "protected" units under Section 66330 Subdivision (d)(2). The Project is consistent with the General Plan, Local Coastal Program, and Zoning designations that allow the single-unit dwellings and accessory dwelling unit land uses. Under Coastal Land Use Plan Table 2.1.1-1, the Two Unit Residential (RT-E) category is intended to provide primarily for two-family residential development such as duplexes or townhomes. Section 21.18. 020 (Residential Coastal Zoning Districts Land Uses) of the NBMC shows "Single-Unit Dwellings – Detached" and "Accessory Dwelling Units" as allowed uses in the R-BI Coastal Zoning District. Therefore, the Project of a single-unit dwelling residence and a JADU unit to replace the existing duplex is consistent with the R-BI zoning and land use designations and does not result in a loss of residential density.
 4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated July 8, 2024. The current maximum bay water elevation is 7.7 feet (NAVD88) and may exceed the existing top of bulkhead elevation of approximately 8.87 (NAVD 88) feet during rare high tide or storm events. The report analyzes future sea level rise scenarios assuming an increase in the maximum water level over the next 75 years (i.e., the life of the structure) of about 3.15 feet. The sea level is estimated to reach approximately 10.85 feet (NAVD88) - (the likely range for sea level rise over 75-year design life of the structure based on low risk and medium/high risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). Based on low risk aversion and the estimated sea level rise, the first floor of the proposed structure will remain above high tide sea level until year 2063.
 5. The project site is separated from the Bay by the public boardwalk and a city-owned bulkhead that is located outside of the property. The top of the bulkhead is currently at an elevation of 8.87 feet (NAVD 88). The Coastal Hazards Report and Sea Level Rise

Analysis states the bulkhead will need to be raised in the future to protect from overtopping during high tide or storm events and to protect against future anticipated sea level rise. Because the bulkhead is not privately owned and cannot be raised by the homeowner, the report recommends future mitigation measures be identified and implemented as needed including waterproofing, flood shields, watertight doors, moveable floodwalls, partitions, water-resistive sealant devices, sandbagging and other similar flood-proofing techniques.

6. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of a building permit. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
7. Pursuant to Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection – Development Standards) of the NBMC, the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The Waiver of Future Protection is included as a condition of approval that will need to be recorded prior to a final building inspection.
8. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with Section 21.30.015(D)(3)(c) (General Site Planning and Development Standards - Waterfront Development) of the NBMC. The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be recorded prior to the issuance of building permits.
9. The property is located adjacent to coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation, and to minimize pollution of runoff, and coastal waters derived from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
10. Pursuant to Section 21.35.050 (Water Quality and Hydrology Plan) of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75% of impervious surface area, a preliminary Water Quality Management Plan (WQMP) is required. The preliminary WQMP was prepared by RCE Consultants, Inc. dated July 10, 2024. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.

11. Proposed landscaping complies with Section 21.30.075 (Landscaping) of the NBMC. A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
12. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is from the Park Avenue Bridge, approximately 350 feet northeast of the property, however the project is not visible from the bridge due to intervening structures. The Project is within the general viewshed of the harbor as seen from designated viewing points above the project site. The Project replaces an existing duplex with a single-family unit and junior accessory dwelling unit that comply with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated neighborhood pattern of development. The Project ultimately should blend into the skyline and does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on existing public views.
13. The proposed three-story design is consistent with the existing neighborhood pattern of development containing two, three, and some scattered one-story dwellings, and will not affect the existing, limited views afforded from the viewing areas. The project will replace an existing duplex with a new single-dwelling unit and JADU that complies with all applicable development standards, including the third-story setbacks that provide additional fifteen-foot setbacks along the bay and street property lines (as measured from the setback lines). There are also additional step backs provided on the third floor to help reduce building mass. The project presents the opportunity to enhance views by updating an older structure with a new building with an updated design. All structures within the front setback area along the bay are limited to 42 inches in height, ensuring that the bay does not appear to be walled off. Therefore, the project does not have the potential to degrade the visual quality of the coastal zone or result in significant adverse impacts to public views.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea. Section 21.30A.040 (Determination of Public Access/Recreation Impacts) of the NBMC requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project includes the demolition of a duplex and the construction of a single-unit dwelling with an attached JADU on an R-BI zoned lot and maintains the same number of units as the existing development. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.

Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

2. Coastal access is currently provided and will continue to be provided by a public walkway around the outer perimeter of Balboa Island that grants pedestrians bay views, sometimes known as the Balboa Island Loop. Existing lateral access to the bay is provided along the Balboa Island Loop, which would not be impacted by the Project. Vertical access to the Balboa Island Loop is available via Abalone Avenue, approximately 90 feet east of the Property. The project does not include any features that would impede access along these routes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit filed as PA2024-0134, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code (NBMC). Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF SEPTEMBER 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this coastal development permit or the processing of a new coastal development permit.
3. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
4. The Coastal Development Permit filed as PA2024-0134 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
5. *Prior to the issuance of building permits, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, prohibiting the use of the accessory dwelling unit for short-term rentals (i.e., less than 30 days) and prohibiting the sale of the JADU separate from the principal dwelling. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.*
6. *Prior to the final building permit inspection, a waterproofing curb or similar design feature shall be constructed around the proposed residence as an adaptive flood protection device up to a minimum of 10.9 feet (NAVD88). Flood shields (sandbags and other methods) can be deployed across the openings to protect and prevent flooding to the structure.*
7. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify 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 development. The letter shall be scanned into the plan set prior to building permit issuance.*
8. *Prior to the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity,*

bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors.

9. Prior to the issuance of a building permit, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall comply with the approved CPPP and WQHP/WQMP; any changes could require separate review and approval by the Building Division.
10. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
11. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
12. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
13. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
14. This Coastal Development Permit does not authorize any development seaward of the private property.
15. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
16. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands, or their buffers.
17. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
18. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock-piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

-
19. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
 20. Prior to the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
 21. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
 22. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or holidays.
 23. 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.
 24. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.

25. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
26. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
27. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
28. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with NBMC Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
29. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
30. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the 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 Podley Residence including, but not limited to the Coastal Development Permit (PA2024-0134). 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 of the City's costs, attorneys' fees, and damages, which the 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 under the indemnification requirements prescribed in this condition.

Building Division

31. Foundation shall be designed for liquefaction mitigation per Policy No. CBC 1803.5

Fire Department

32. Installation of an NFPA 13D fire sprinkler system is required.

Public Works

33. Install a new sewer clean out on the existing sewer lateral per City Standard 406.
34. An encroachment permit is required for the proposed improvement within the Bay Front South right of way. All improvements shall be consistent with Council Policy L-6.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

APPLICATION: Little Billy's Substantial Conformance (PA2024-0011)
• Staff Approval

LOCATION: 2606 Avon Street

APPLICANT: Sayed Sadat, Tank & Olive LLC

LEGAL DESCRIPTION Lot 47 of Tract No. 1133

On **September 13, 2024**, the Community Development Director found the project in substantial conformance and approved the Staff Approval filed as PA2024-0011 to change the Alcoholic Beverage Control (ABC) License for an existing restaurant from a Type 40 (On-Sale Beer) to a Type 41 (On-Sale Beer & Wine – Eating Place). Permitted hours for alcohol sales shall remain from 7:00 a.m. to 6:00 p.m. and there are no physical changes proposed to the restaurant. This approval is based on the following analysis and is subject to all Conditions and Assumptions thereafter in Section V.

LAND USE AND ZONING

- **General Plan:** Mixed-Use Horizontal 1 (MU-H1)
- **Zone:** Mixed Use Mariners' Mile (MU-MM)
- **Coastal Land Use:** Mixed-Use Horizontal (MU-H)
- **Coastal Zone:** Mixed Use Mariners' Mile (MU-MM)

The project site is located within the Coastal Zone. The request to modify the ABC license type does not intensify or expand the existing restaurant use, nor does it intensify the code required parking. The project is not considered development pursuant to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) and no coastal development permit is required.

I. PREVIOUS APPROVAL FOR THE EXISTING USE

On July 13, 1972, the Planning Commission approved Use Permit No. UP1609 (Attachment No. CD 2) to allow the sale of beer in conjunction with a restaurant. The Planning Commission limited the sale of beer from 7:00 a.m. to 6:00 p.m. and prohibited live entertainment. The restaurant continues to operate pursuant to UP1609.

II. CURRENT OPERATIONAL CHARACTERISTICS

The restaurant has changed ownership and name over time, but the use has remained a restaurant since the original approval was granted. The restaurant is now known as Little Billy's and serves breakfast and lunch. Little Billy's will operate from 7:00 a.m. to 6:00 p.m., daily. Point of sale for food and alcoholic beverages will be kept behind the sales counter, which will not be accessible by customers. A complete project description and a floor plan are included as Attachment No.'s CD 3 and CD 4, respectively.

III. PROPOSED CHANGES

The applicant proposes to change the existing ABC license from a Type 40 (On-Sale Beer) to Type 41 (On-Sale Beer & Wine – Eating Place). While the Type 41 license introduces the sale of wine, it is ultimately a more restrictive license than the Type 40 ABC license. The Type 40 license allows for the sale of beer without food and is categorized by ABC as a bar and tavern license. The Type 41 license aligns more closely with the restaurant's operations as they serve alcohol in conjunction with food sales. No live entertainment, amplified music, or dancing is proposed. There are no physical changes proposed to the restaurant.

The Newport Beach Police Department (NBPD) reviewed the project and prepared a memorandum (Attachment CD 5) with detailed statistical information related to alcohol establishments in and around the project site.

Table 1: 2023 Crime Statistics

Reporting District	Group A Offenses (Serious offenses)	Group B Offenses (All other offenses)	Total ABC Crime Count
2606 Avon Street	0	0	0
RD No. 25	172	58	154
RD No. 24	305	119	314
RD No. 26	230	74	189
RD No. 15	550	275	643
Newport Beach	5,102	1,439	4,502

The property is in Reporting District 25 (RD 25). RD 25 encompasses the Mariner's Mile area, north of Coast Highway, and from Tustin Avenue to Newport Boulevard. It is considered a high crime area. The RD's Crime Count is 154, or 31% over the City-wide crime count average of 140. Because this area has a 20% greater number of reported crimes than the average number of reported crimes City wide, the area is found to have undue concentration pertaining to crime. The property is also within a census tract with a higher number of alcohol licenses per capita compared to the County wide average and is considered oversaturated.

Based on the early closing hours and type of ABC license requested, the NBPD has no objection to the request, subject to appropriate conditions of approval. The suggested conditions of approval have been incorporated into this Staff Approval.

IV. 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. This staff approval is based on the following findings and facts in support of the findings.

Finding:

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

Facts in Support of Finding:

1. The property is categorized as Mixed Use Horizontal 1 (MU-H1) by the Land Use Element of the General Plan. MU-H1 is intended to provide areas for the development of a horizontally distributed mix of uses, which may include general or neighborhood commercial, commercial offices, multi-family residential, visitor-serving and marine-related uses, and/or buildings that vertically integrate residential with commercial uses. The Project is consistent with the MU-H1 categorization, as the restaurant is a commercial use that serves nearby residents and visitors to the City.
2. The Property is zoned Mixed-Use Mariners' Mile (MU-MM). MU-MM applies to properties along the Mariner's Mile Corridor in which nonresidential and residential dwelling units may be intermixed. Food service with no late hours and within 200 feet proximity of residential uses is permitted within the MU-MM zoning district, subject to the approval of a minor use permit. The existing restaurant has operated pursuant to a use permit since 1972.

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.

Facts in Support of Finding:

1. UP1609 was not reviewed pursuant to the California Environmental Quality Act (CEQA) at the time of approval, and no negative declaration or Environmental Impact Report was adopted/certified for the project. However, the current project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.

2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The project is a request to change an ABC License at an existing restaurant. There is no expansion of use.

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.*

Facts in Support of Finding:

1. UP1609 included limited conditions of approval for the project. Only two conditions were included that are relevant to the sale of alcohol. Specifically, the sale of beer was limited to the hours of 7:00 a.m. to 6:00 p.m., and live entertainment was prohibited. The request to modify the ABC License type does not propose changing either condition and they are both included in the approval of the proposed project as Conditions No. 4 and 9, respectively.
2. The proposed project has been reviewed by Code Enforcement and NBPD. Neither department expressed concern with the request nor opposes the proposed project.
3. Based on the location, operational characteristics, and closing hours, the NBPD has no concerns with the change in ABC license and has recommended conditions of approval to supplement the limited conditions of the original use permit. They are included as Conditions No. 1 through 3, 5 through 8, and 10 through 16.

Finding:

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

Facts in Support of Finding:

1. The restaurant will maintain the same operational characteristics as currently permitted. The restaurant is currently permitted to serve beer during the hours of 7:00 a.m. to 6:00 p.m. The applicant only requests to modify the type of ABC license for the business. The ABC Type 41 license is more in line with the existing operational characteristics of the restaurant, which serves alcohol in conjunction with food sales. This is in contrast to the ABC Type 40 license, which permits the sale of beer without food and is categorized by the ABC as a bar and tavern license.
2. No live entertainment, amplified music, or dancing are being requested as part of this application.

3. No expansion of the footprint of the building or the floor area of the service area is proposed as part of this project.

V. CONDITIONS AND ASSUMPTIONS

- 1) The Alcoholic Beverage Control License shall be limited to an ABC Type 41 (On-Sale Beer and Wine – Eating Place). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Use Permit.
- 2) 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 this Staff Approval.
- 3) All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible beverage service within 60 days of hire. The certified program must meet the standards of the State of California. Records of each owner'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.
- 4) The sale of alcohol shall be limited to the hours of 7:00 a.m. to 6:00 p.m. daily.
- 5) The eating and drinking establishment shall close no later than 6:00 p.m.
- 6) Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.
- 7) 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 NBPD on demand.
- 8) No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
- 9) There shall be no live entertainment or dancing allowed on the premises.
- 10) No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
- 11) Food service from the regular menu shall be made available to patrons until closing.
- 12) Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover

charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.

- 13) Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
- 14) 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.
- 15) There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- 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 and other applicable noise control requirements of the NBMC.
- 17) 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 Little Billy's ABC License including, but not limited to, the approval of **Little Billy's Staff Approval(PA2024-0011)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' 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.

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 949 644-3200.

Prepared by:

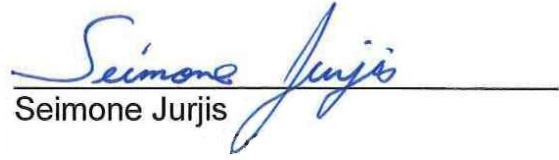


Kelly Ribuffo

Contract Planner

JP/kr

Approved by:



Assistant City Manager

- Attachments:
- CD 1 Vicinity Map
 - CD 2 UP1609
 - CD 3 Applicant's Project Description
 - CD 4 Floor Plan
 - CD 5 Police Department Memorandum

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Little Billy's Staff Approval

2606 Avon Street

Attachment No. CD 2

UP1609

USE PERMIT APPLICATION
CITY OF NEWPORT BEACH

No. 1609

Fee \$150.00

Department of Community Development
Zoning and Ordinance Administration Division
3300 Newport Boulevard
Phone (714) 673-2110

Applicant JOE R. & ELLEN J. EGAN Phone 548 2652

Mailing Address 215 TUSTIN AVE NEWPORT BEACH

Property Owner NORMAN CARPENTER Phone 646 8577

Mailing Address 1606 HIGHLAND DR. NEWPORT BEACH

Address of Property Involved ELLEN'S COFFEE SHOP
2606 AVON ST. NEWPORT BEACH

Purpose of Application (describe fully) TO GET A PERMIT TO
SELL BEER IN OUR COFFEE SHOP. OUR HOURS ARE
FROM 7:00 AM. TO 6:00 PM. OUR INTENTIONS ARE ONLY
TO ADD BEER TO OUR MENU, NOT OPEN A BEER BAR.
WE ARE LESS THAN 200 FT. FROM A RESIDENTIAL
ZONE SO WE NEED A USE PERMIT

Zone C-1-H Present Use COFFEE SHOP

Legal Description of Property Involved (if too long, attach sheet)

POR. LOT 47, TRACT 1133 (MAP G7.)

Joe R. Egan Signature of Applicant or Agent Ellen J. Egan Date 6-22-72

Norman W. Carpenter Signature of owner Date 6.22.72

XX

DO NOT COMPLETE APPLICATION BELOW THIS LINE

Date Filed 6-23-72 Fee Pd. 150⁰⁰ Receipt No. 52825

Hearing Date 7-20-72 Publication Date 7/13/72

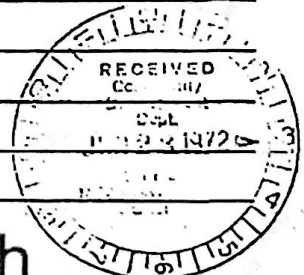
Posting Date _____ Mail Date _____

P. C. Action appr. cond 7/20/72

Date _____ Appeal _____

C. C. Hearing _____ C. C. Action _____

_____ Date _____



CITY OF NEWPORT BEACH

July 13, 1972

TO: Planning Commission
 FROM: Department of Community Development
 SUBJECT: Use Permit Application No. 1609
 Request to sell beer in conjunction with an existing restaurant which is within 200 feet of a residential zone.
 LOCATION: Portion of Lot 47 of Tract 1133 located at 2606 Avon Street on the north side of Avon Street, between Riverside Avenue and Tustin Avenue in Newport Heights.
 ZONE: C-1-H
 APPLICANT: Joe R. and Ellen J. Egan, Newport Beach
 OWNER: Norman Carpenter, Newport Beach

Application

The applicant has requested a use permit to sell beer in conjunction with an existing restaurant located within 200 feet of a residential zone.

Subject Property and Surrounding Land Uses

Ellen's Coffee Shop is located in a C-1-H District on the north side of Avon Street between Riverside Avenue and Tustin Avenue. The restaurant is bound on the east by a beauty shop, on the north and south by parking lots and on the west by a medical office. Single family residences are located to the north and northwest of the subject property along Ocean View Avenue and Tustin Avenue.

Analysis

This request presents no apparent conflict with the surrounding land uses. The restaurant primarily serves a business clientele and operates on the week days from 7:00 A.M. to 6:00 P.M. The Police Department has reviewed this application and recommends its approval on the basis that no complaints were registered during a recent canvass of the area.

Recommendation

This request presents no problems from a planning standpoint. Therefore, the staff recommends approval of Use Permit 1609 subject to the following condition:

1. That approval shall be for a 2 year period from the effective date of this action, and any request for extension shall be acted upon by the Modifications Committee.

DEPARTMENT OF COMMUNITY DEVELOPMENT
 R. V. HOGAN, Director

By Robert E. Fosnot
 Robert E. Fosnot RVH:REF:hh
 Assistant Planner

Attachments: Vicinity Map
 Plot Plan

CITY OF NEWPORT BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN REVIEW REQUEST

Date July 3, 1972

- ADVANCE PLANNING DIVISION
- PUBLIC WORKS DEPARTMENT
- TRAFFIC ENGINEER
- FIRE DEPARTMENT
- PLAN REVIEW DIVISION
- PARKS & RECREATION
- POLICE DEPARTMENT - Lt. Petersen
- HARBOR & TIDELANDS
- GENERAL SERVICES

PLANS ATTACHED (PLEASE RETURN)

PLANS ON FILE IN ZONING AND
ORDINANCE ADMINISTRATION
DIVISION

APPLICATION OF Joe R. and Ellen J. Egan

FOR A VARIANCE USE PERMIT No. 1609

RESUBDIVISION TRACT MAP

TO PERMIT the sale of beer in conjunction with Ellen's Coffee Shop in the
C-1-H District located within 200 feet of a residential district.

ON ~~287~~ POR. LOT 47 BLOCK _____ TRACT 1133

ADDRESS 2606 Avon Street, Newport Beach

REPORT REQUESTED BY July 10, 1972

COMMISSION REVIEW July 20, 1972

COMMENTS This is a small neighborhood restaurant
which enjoys a good reputation in the "Mushy Mile"
business district. There has never been any
Police Complaints. The owner is attempting to serve
bottled beer only with lunches because of many
of her regular customers requesting same. She
will be open for business from 7 AM to 6 PM week
days only. I canvassed the residents and
 fellow businessmen in the area and
 none of these people were against approval
 of this use permit. I recommend approval
 of the use permit.

Ernest A. Faurin, Lt. 6-5-72
SIGNATURE Personnel/Special Investigator DATE

July 20, 1972

ROLL CALL

INDEX

Adkinson
Agee
Dosh
Glass
Hazewinkel
Heather
Martin

Motion
Second
All Ayes

X X

Zone: C-1
Applicant: Lawrence Scott, Newport Beach
Owner: Henry Fredricks, Newport Beach

Following review of the application, Planning Commission extended Use Permit Application No. 1513 for a period of one (1) year.

* * * * *

Planning Commission recessed at 9:00 P.M. and reconvened at 9:05 P.M.

* * * * *

Item #13

Request to sell beer in conjunction with an existing restaurant which is within 200 feet of a residential district.

USE
PERMIT
NO. 1609

Location: Portion of Lot 47 of Tract 1133 located at 2606 Avon Street on the north side of Avon Street between Riverside Avenue and Tustin Avenue in Newport Heights.

APPROVED
CONDI-
TIONALLY

Zone: C-1-H
Applicant: Joe R. and Ellen J. Egan, Newport Beach
Owner: Norman Carpenter, Newport Beach

Chairman Dosh opened the public hearing and reviewed the application with the Planning Commission.

Ellen Egan appeared before the Planning Commission and stated that she was agreeable to the condition recommended in the staff report. She also stated she would be in agreement with conditions limiting the hours for sale of beer from 7:00 a.m. to 6:00 p.m.

Ginger Page, speaking on behalf of the Newport Heights Association, appeared before the Planning Commission and stated that if the hours for sale of beer were limited to no later than 6:00 p.m. they would go along with the request.

COMMISSIONERS

CITY OF NEWPORT BEACH

MINUTES

July 20, 1972

ROLL CALL

INDEX

ADKINSON
AGEE
DOSH
GLASS
HAZEWINKEL
HEATHER
MARTIN

Motion
Second
All Ayes

X

X

Following discussion by the Planning Commission which included the possibility of entertainment, Use Permit Application No. 1609 was approved subject to the following conditions:

1. That approval shall be for a 2 year period from the effective date of this action, and any request for extension shall be acted upon by the Modifications Committee.
2. That the sale of beer be limited to the hours from 7:00 a.m. to 6:00 p.m.
3. That no live entertainment be permitted.

Item #14

Request to permit live entertainment and dancing in conjunction with Cyrano's Restaurant in the C-O-H-UL District in Newport Center.

USE
PERMIT
NO. 1610

Location: Portion of Lot 22 of Tract 6015 located at 600 Newport Center Drive in Newport Center.

APPROVED

Zone: C-O-H-UL

Applicant: Cyrano-at-Irvine, Inc., Los Angeles

Owner: The Irvine Company, Newport Beach

Chairman Dosh opened the public hearing and reviewed the application with the Planning Commission.

There being no one in the audience desiring to appear and be heard in this matter, the Chairman closed the public hearing.

Following a short discussion, Planning Commission approved Use Permit Application No. 1610.

Item #15

Request to permit a school of photography in conjunction with a photographic studio.

USE
PERMIT
NO. 1611

Location: Lot 5 of Tract 3201, located at 3720 Campus Drive, on the north-east side of Campus Drive, between Bristol Road and Quail Street.

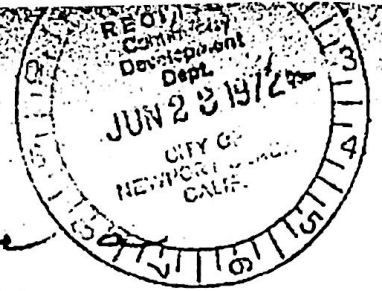
APPROVED
CONDI-
TIONAL

Motion
Second
All Ayes

X

X

Dear Board Members



With our request for
Use Permit we would like you
to be aware of our intentions.

We have operated our Coffee Shop
for approx 15 yrs. now and have
gotten to know our customers very
well. Our customers are only local
working people that walk a block
or two for Breakfast or Lunch.

We don't get the Tourist Trade so
Parking has never been a problem because
our customers are already parked in
their own parking lots.

It was at the request of our
customers that we applied for our
Bar license.

We have our day time and we
have no entertainment so we should
not be a noise problem to our
neighbors. The front of our Shop
is all glass and sunlight so we
don't have the atmosphere of a Bar.

Our only purpose is to add Beer
to our Menu. We will remain a
Coffee Shop that serves Beer not
a Bar that serves food.

Thank You
City of Newport Beach
Mike McEgan

Authorized to Publish Advertisements of all kinds, including legal notices by Decree of the Superior Court of Orange County, California, Number A-6214, dated 29 September, 1961, and A-24831, dated 11 June, 1963.

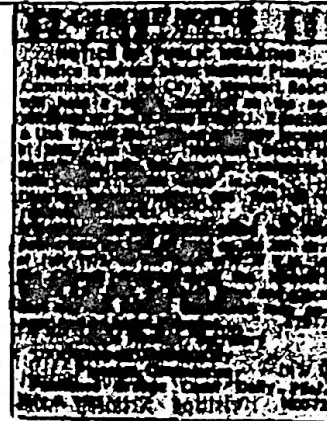
This space for the County Clerk's Filing Stamp

STATE OF CALIFORNIA
County of Orange

Legal Advertising covered by this affidavit is set in 6 point with 11 pica column width.

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the below entitled matter. I am a principal clerk of the Orange Coast DAILY PILOT, with which is combined the NEWS-PRESS, a newspaper of general circulation, printed and published in the City of Costa Mesa, County of Orange, State of California, and that a Notice of _____
Public Hearing (City of Newport Beach)

_____ proof of Publication of _____



of which copy attached hereto is a true and complete copy, was printed and published in the regular Costa Mesa, Fountain Valley, Huntington Beach, Laguna Beach, Newport Beach, Saddleback, San Clemente/Capistrano and Irvine issue (s) of said newspaper for _____
~~one~~ ~~times~~ ~~per~~ ~~week~~: to wit the issue (s) of

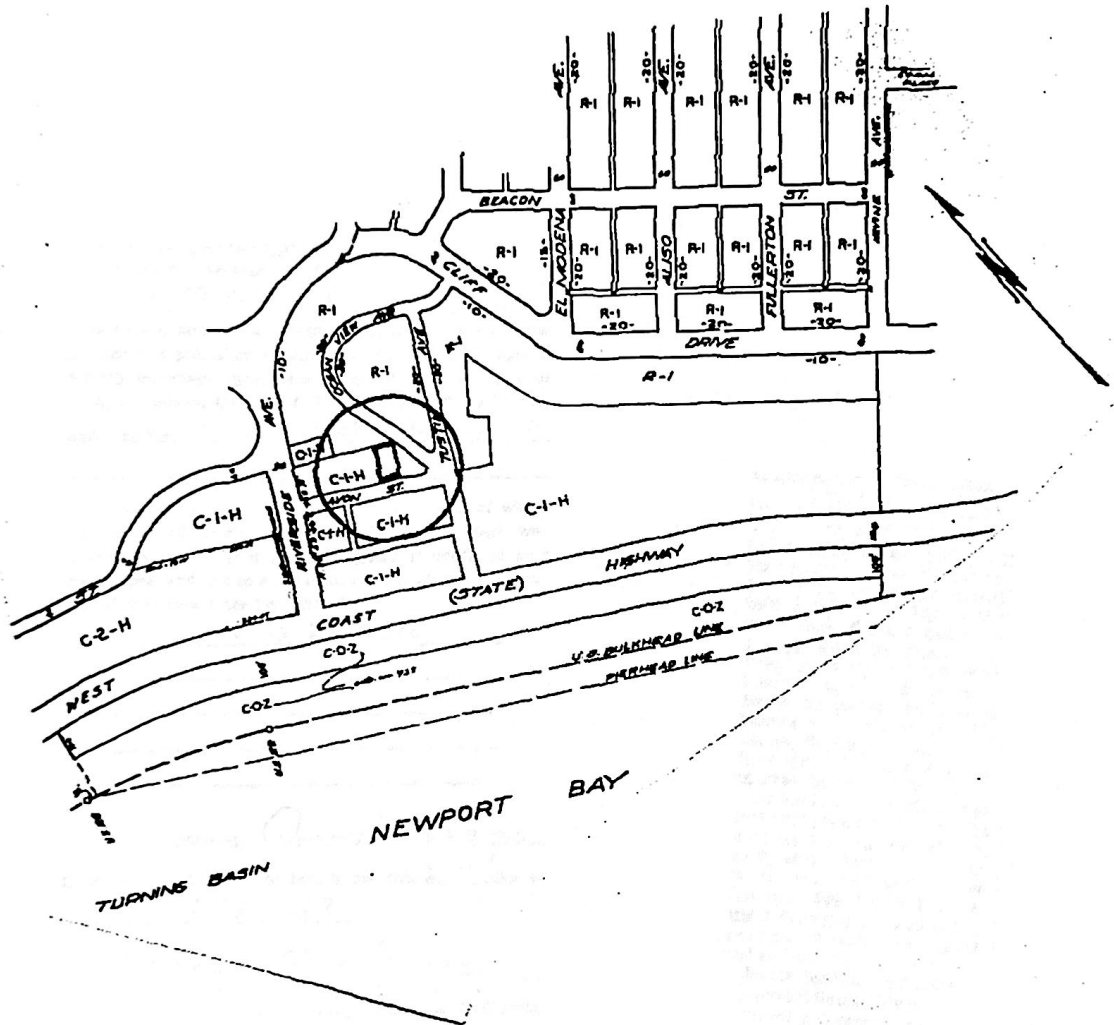
_____ July 9 _____, 197 2
_____, 197_____
_____, 197_____
_____, 197_____
_____, 197_____

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on July 9, 197 2
at Costa Mesa, California.

(Signature)

PROOF OF PUBLICATION
City of Newport Beach



USE PERMIT #1609

City of Newport Beach

**AFFIDAVIT OF PUBLICATION
NEWPORT HARBOR ENSIGN**

STATE OF CALIFORNIA } ss.
County of Orange

I, ARVO E. HAAPA, being first duly sworn, and on oath depose and say that I am the printer and publisher of the Newport Harbor Ensign, a weekly newspaper printed and published in the City of Newport Beach, County of Orange, State of California, and that the NOTICE OF PUBLIC HEARING

..... of which copy attached hereto is a true and complete copy, was printed and published in the regular issue(s) of said newspaper, and not in a supplement, consecutive times: to-wit the issue(s) of

July 13, 1972

(Signed) Arvo E. Haapa

Subscribed and sworn to before me this 13th day of July, 1972

Mary A. Haapa
Notary Public in and for the
County of Orange, State of California.



LEGAL NOTICE
NOTICE OF PUBLIC HEARING
Notice is hereby given that the Planning Commission of the City of Newport Beach will hold a public hearing on the application of Joe E. and Ellen J. Egan for a Use Permit No. 1899 on a parcel located at 2900 Aves Street, Newport Beach to permit the sale of beer in conjunction with Ellen's Coffee Shop in the C-1.5B District located within 300 feet of a residential District.
Notice is hereby further given that said public hearing will be held on the 20th day of July, 1972, at the hour of 2:30 P. M. in the Council Chambers of the Newport Beach City Hall, at which time and place any and all persons interested may appear and be heard thereon.
Jackie Heather, Secretary
Newport Beach City
Planning Commission
Public: July 13, 1972, in the Newport Harbor Ensign.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Commission of the City of Newport Beach will hold a public hearing on the application of Joe R. and Ellen J. Egan

for a Variance _____ Use Permit No. 1609

on property located at 2606 Avon Street, Newport Beach

to permit the sale of beer in conjunction with Ellen's Coffee Shop in the C-1-H District located within 200 feet of a residential District.

Notice is hereby further given that said public hearing will be held on the 20 day of July 19 72, at the hour of 7:30 P.M. in the Council Chambers of the Newport Beach City Hall, at which time and place any and all persons interested may appear and be heard thereon.

Jackie Heather, Secretary
Newport Beach City
Planning Commission

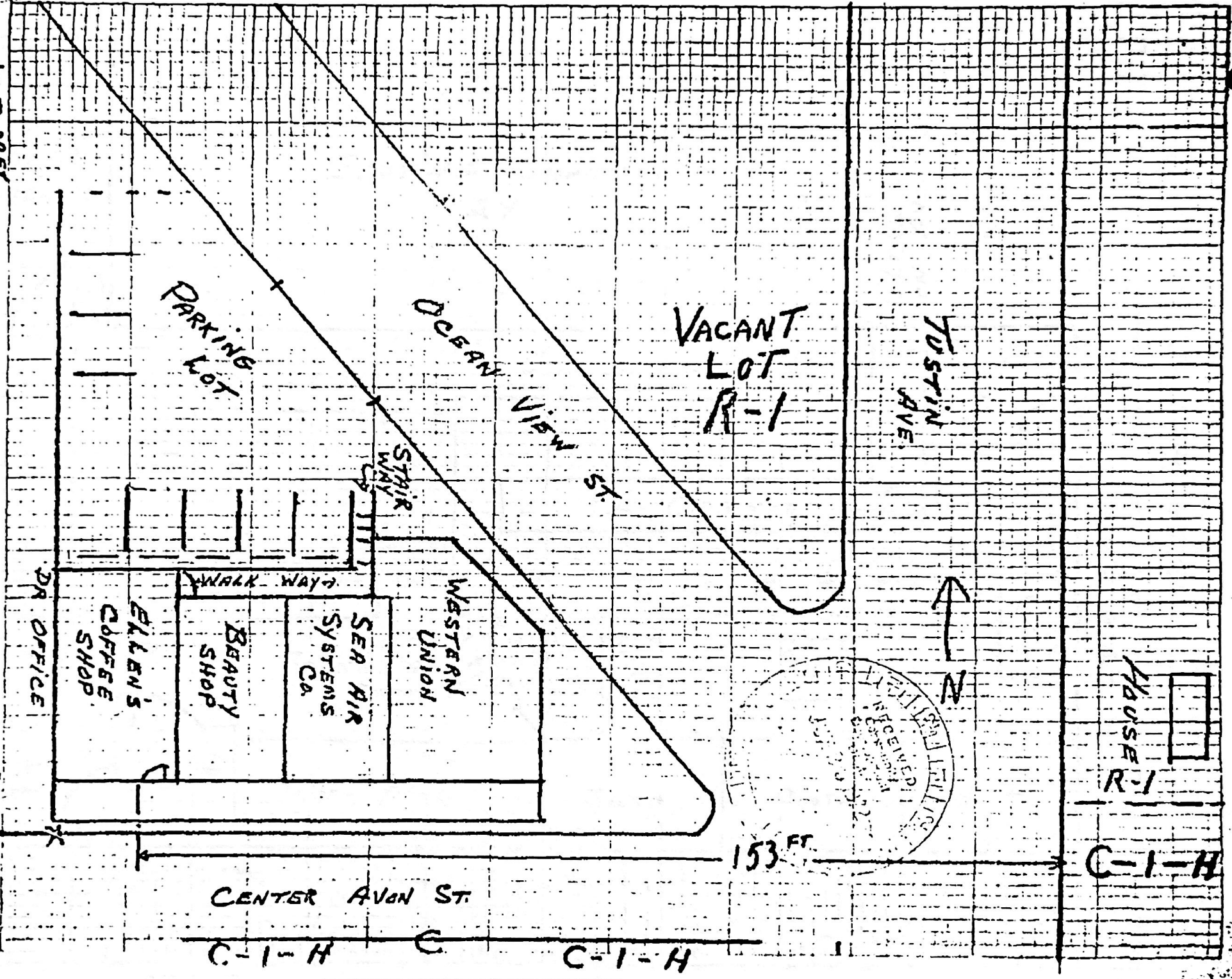
Publication Date _____
Received for Pub. _____
By J. Heather

City of Newport Beach

CITY OF NEWPORT BEACH

DIST. MAP G-7

14' TO 30' FT.



VACANT LOT R-1

OCEAN VIEW ST.

JUSTIN AVE.

PARKING LOT

STAIR WAY

WALK WAY

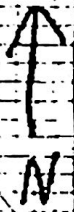
WESTERN UNION

SER AIR SYSTEMS Co.

BEAUTY SHOP

ELLEN'S OFFICE SHOP

DR OFFICE



HOUSE R-1

C-1-H

CENTER AVON ST.

153 FT.

C-1-H

C-1-H

SEATING CAPACITY
29

SERVICE
ENTRANCE

GLASS FRONT
ON AVON ST

STOVES

SERVICE WORK AREA

CIG
MACH.

COUNTER

SINKS

COUNTER SEATS

TABLE

HEATER
ROOM

SWINGING
DOORS

TABLE

TABLE

REST
ROOM

WORK AREA

BOOTH

BOOTH

BOOTH

← AVON ST. →

2606 AVON ST.

4" TO 1" FT

City of Newport Beach

Attachment No. CD 3

Applicant's Project Description

Tank & Olive LLC
dba: Little Billy's
2606 Avon St
Newport Beach, CA 92663

01-04-2024

Project Description and Justification

I am writing this letter of project description and justification to obtain approval to amend the current CUP # 1609 from serving Beer [ABC license type 40] to serve Beer & Wine [ABC license type 41] for my Coffee shop/restaurant located at 2606 Avon St. Newport Beach, CA 92663

This is an approx. 676 sqft facility consistent of approx. 50% devoted to the dining area with up to 29 seating capacity and we are open daily from 7:00 AM- 6:00 PM.

This space has been a Coffee shop/restaurant use for over past 60 years and have always served customers with great food and never created unusual noise, traffic or other conditions or situations which might have been objectionable, detrimental or incompatible with other permitted uses in the vicinity or resulted in conditions or circumstances contrary to the public health, safety and general welfare.

We plan to continue to run a first class Coffee shop/Restaurant operation that our neighbors and community will be proud of. We will be Doing Business As (dba): Little Billy's

The point of sale and alcohol beverage will be kept behind the counter which will not be accessible by customers and will be guarded against access of any unauthorized persons by our trained staffs.

We will adopt a very comprehensive system that will work efficiently in our location:

- No employees are allowed to touch or pour any alcoholic beverages if they are under 21.
- Every customer will be ID's regardless of their age
- All the beer and wine purchased must be consumed at the premise. No alcoholic beverages are allowed to be taken to common areas of the shopping center
- Maximum 2 alcoholic beverages will be sold to any customers.
- All alcoholic beverage sales will be suspended at 6:00 PM
- All employees are prohibited from purchasing any alcoholic beverages if they are on the job.
- We will have the morning shift team lead as well as the evening shift to supervise and monitor our operations.
- Failure to deviate from the above will cause immediate termination and possible protection in the event of any sale of Alcoholic beverages to minors.
- In addition, our management team and any employee who will be serving alcohol beverage will participate in the LEAD program that Alcohol Beverage Control (ABC) offers as a free, voluntary prevention and education program for retail licensees, their employees and applicants. The program provides attendees with practical information on serving alcoholic beverages safely,

responsibly, and legally, with emphasis on preventing sales to minors, sales to obviously intoxicated persons, and illicit drug activity at the licensed establishment.

Little Billy's will add to the efforts to revitalize and improve the area economy in several positive ways, we believe that our business will thrive and more tourist and local dollars alike to the Newport Beach economy. We have leased this location and have invested considerable time & capital in improving the space with upgrades to the interior. This investment is a commitment to the community to provide a quality in a safe environment. Little Billy's will employ up to 5 new hires, and contributes to the tax revenue of the community.

Sincerely


Tank & Olive LLC

Attachment No. CD 4

Floor Plan



Site Plan
2606 Avon St.
Newport Beach CA 92663

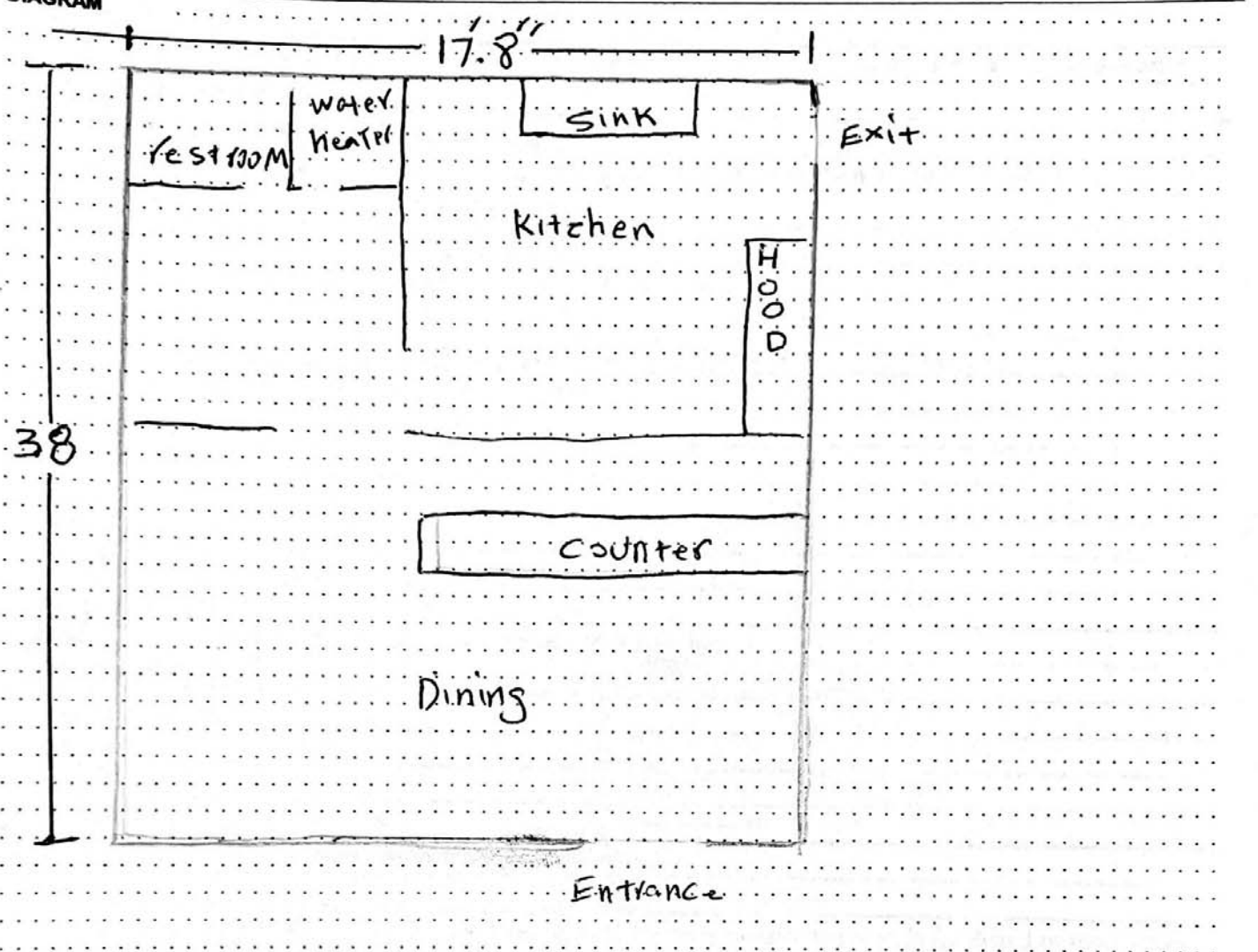
Little Billy's



LICENSED PREMISES DIAGRAM (RETAIL)

1. APPLICANT'S NAME(S) (If an individual, last name, first name, middle name. Name of entity if corporation, limited partnership or limited liability company.)	2. LICENSE TYPE
Tank and Olive LLC	41
3. PREMISES ADDRESS (Street number and name, city, zip code)	4. NEAREST CROSS STREET
2606 AVON ST. NEWPORT BEACH, CA 92663	Tustin Ave

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.). The area to be licensed must be outlined in red.



It is hereby declared that the above-described premises and character of premises, as indicated on the reverse side, will not be changed in accordance with Rule 64.2 of the California Code of Regulations without first notifying and securing approval of the Department of Alcoholic Beverage Control. Substantial changes to the premises may require an application fee in accordance with Section 24072 of the Business and Professions Code. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required)	DATE SIGNED	
<i>[Signature]</i>	9/19/23	
FOR ABC USE ONLY		
CERTIFIED CORRECT (Signature)	PRINTED NAME	INSPECTION DATE

Attachment No. CD 5

Police Department Memorandum



**NEWPORT BEACH POLICE DEPARTMENT
DETECTIVE DIVISION**

MEMORANDUM

TO: Kelly Ribuffo, Consultant Planner
FROM: Wendy Joe, Police Civilian Investigator
DATE: July 24, 2024
SUBJECT: Little Billy's
2606 Avon Street, Newport Beach
PA2024-0011

At your request, the Police Department has reviewed the project application for Little Billy's, located at 2606 Avon Street, Newport Beach. The applicant is seeking a MUP to upgrade their Alcoholic Beverage Control License from a Type 40 (On-Sale Beer) to a Type 41 (On Sale Beer and Wine) License. No late hours are proposed.

Statistical Data and Public Convenience or Necessity

Attached is a summary report which provides detailed statistical information related to alcohol establishments in and around the applicant's proposed place of business at 2606 Avon Street.

Business and Professions Code §23958.4 finds "undue concentration" for an applicant premises in two ways: 20% higher crime (with an alcohol nexus) in a Reporting District as compared to the City-wide average, or an over saturation of alcohol licenses in a census tract compared to the county.

Crime Statistics:

The Police Department divides the City into areas referred to as Reporting Districts. This allows the Police Department to compile statistical data, as well as better communicate officer locations while policing. The proposed applicant location is within Reporting District (RD) 25 which encompasses the Mariner's Mile area from Tustin Ave. to Newport Blvd., north of Coast Hwy.

Per Business and Professions Code §23958.4, the Police Department is required to report offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft (all Part I crimes), combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to the Department of Alcoholic Beverage Control (ABC). These figures make up the "Crime Count" which is indicated on the attached statistical data form.

This reporting district is reported to ABC as a high crime area as compared to other Reporting Districts in the City. The RD's Crime Count is 154, 31% over the City-wide crime count average

of 140. Since this area has a 20% or greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City, the area is found to have undue concentration. In comparison, neighboring RD 24 is 143% above the City-wide average, RD 26 is 23% above the City-wide average, and RD 15 is 286% above the average. Of 38 reporting districts in Newport Beach, we reported 12 to ABC as high crime areas.

The highest volume crime in this area is vandalism. The highest volume of arrests in the area is DUI.

DUI, Public Intoxication, and liquor law violations make up 25% of arrests in this reporting district. In comparison, the figure for neighboring RD 24 is 27%, RD 26 is 27% and RD 15 is 37%.

This location meets the legal criteria for undue concentration pertaining to crime (B&P §23958.4).

Alcohol License Statistics:

The applicant premise is located within census tract 634. This census tract has an approximate population of 4,776 residents with 17 active on-sale alcohol licenses. That is a per capita ratio of 1 license for every 281 residents. Per the Business and Professions code, we compare this per capita ratio to Orange County's on-sale per capita ratio of 1 license for every 822 residents and we find census tract 634 is over saturated with alcohol licenses per the specified criteria.

This location meets the legal criteria for undue concentration pertaining to alcohol licenses (B&P §23958.4).

Discussion and Recommendations

Due to the lack of late hours and the type of alcoholic beverage license requested, the Police Department has no concerns with the application provided the conditions below (or similar conditions) are imposed.

1. The Alcoholic Beverage Control License shall be limited to a Type 41 (On-Sale Beer and Wine). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Use Permit.
2. 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.
3. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible beverage service within 60 days of hire. The certified program must meet the standards of the State of California. Records of each owner'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.
4. The eating and drinking establishment shall close no later than 11:00 p.m.

5. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
6. 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.
7. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
8. There shall be no live entertainment or dancing allowed on the premises.
9. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
10. Food service from the regular menu shall be made available to patrons until closing.
11. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
12. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
13. 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.
14. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
15. 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 and other applicable noise control requirements of the Newport Beach Municipal Code.

If you have any questions as to the content of this memorandum, please contact Investigator Wendy Joe at (949)644-3705 or wjoe@nbpd.org.

Wendy Joe
Police Civilian Investigator, Special Investigations Unit



NEWPORT BEACH POLICE DEPARTMENT

2023 CRIME AND ALCOHOL-RELATED STATISTICS

CHIEF JOSEPH L. CARTWRIGHT

SUMMARY FOR LITTLE BILLY'S AT 2606 AVON STREET (RD25)

Subject:	DISPATCH EVENTS	REPORTED CRIMES				ARRESTS					CITATIONS ALCOHOL RELATED
		GROUP A OFFENSES	GROUP B OFFENSES	CRIME RATE	HIGHEST VOLUME	ALL ARRESTS	DUI ALCOHOL	PUBLIC INTOXICATION	LIQUOR LAW	HIGHEST VOLUME	
2606 Avon Street	0	0	0	N/A	N/A	0	0	0	0	N/A	0
Subject RD: RD25	1,192	172	58	6,160.46	THEFT/LARCENY	83	14	7	0	NARCOTICS	2
Adjacent RD: RD24	2,474	305	119	18,496.06	AGGRAVATED ASSAULT	197	28	24	2	NARCOTICS	2
Adjacent RD: RD26	1,363	230	74	9,721.05	THEFT/LARCENY	107	19	10	0	NARCOTICS	3
Adjacent RD: RD15	3,342	550	275	19,579.92	AGGRAVATED ASSAULT	453	53	113	1	DISORDERLY CONDUCT	30
Newport Beach	40,526	5,102	1,439	5,885.07	THEFT/LARCENY	2,732	291	339	7	NARCOTICS	67

This report reflects City of Newport Beach data for 2022. The NIBRS Group A Offense category is made up of 49 offenses used to report crimes committed within a law enforcement agency's jurisdiction. NIBRS Group B Offenses are less serious offenses that require an arrest to be reportable. Crime Rate refers to the number of Group A Crimes per 100,000 people.

Subject:	ACTIVE RETAIL ABC LICENSES <small>as of 07/18/2023</small>							Subject:	ABC CRIME COUNT		
	Population	ON-SALE Licenses	ON-SALE License Per Capita	OFF-SALE Licenses	OFF-SALE License Per Capita	TOTAL RETAIL LICENSES	TOTAL RETAIL LICENSES PER CAPITA		CRIME COUNT	DIFF FROM AVG	%DIFF FROM AVG
2606 Avon Street	N/A	1	N/A	0	N/A	1	N/A	2606 Avon Street	0	N/A	N/A
Subject Census Tract: 634	4,776	17	281	0	0	17	281	Subject RD: RD25	154	+36	+31%
Adjacent Census Tract: 636.03	6,450	6	1,075	5	1,290	11	586	Adjacent RD: RD24	314	+196	+166%
Adjacent Census Tract: 630.1	6,698	8	837	2	3,349	10	670	Adjacent RD: RD26	189	+71	+60%
Adjacent Census Tract: 635	4,938	65	76	6	823	71	70	Adjacent RD: RD15	643	+525	+445%
Newport Beach	86,694	279	311	66	1,314	345	251	Newport Beach	4,502	RD Average = 118	
Orange County	3,186,989	3,876	822	1,842	1,730	5,718	557				

All Population figures taken from 2020 US Census. Per BP 23958.4, the "ABC Crime Count" includes offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations).