



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

February 28, 2013

Agenda Item 3

SUBJECT: Fig & Olive Minor Use Permit - (PA2012-163)
151 Newport Center Drive
Minor Use Permit No. UP2012-029

APPLICANT: Irvine Company – Bob Lisle

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC-56 (North Newport Center)
- **General Plan:** CR (Regional Commercial)

PROJECT SUMMARY

A minor use permit application to allow a Type 47 (On Sale General) Alcoholic Beverage Control (ABC) license for Fig & Olive, a food service, eating and drinking establishment with late hours (after 11:00 p.m.), live entertainment, and an outdoor dining patio. The restaurant is under construction and will be located in Fashion Island at the site formerly occupied by Coco's, which was operated as a restaurant with alcohol beverage sales.

Once constructed, the gross floor area of the establishment will be 9,619 square feet, the interior net public area will be 5,185 square feet, and the net public area of the outdoor dining patio will be 1,842 square feet. The establishment will provide 265 interior seats and 102 seats on the patio. The hours of operation will be from 9:00 a.m. to 2:00 a.m., daily. Due to the late hours of operation (after 11:00 p.m.), approval of an operator's license by the Newport Beach Police Department will be required.

Live entertainment in the form of a disc jockey between the hours of 8:00 p.m. and 2:00 a.m., daily, is proposed. Live entertainment in the form of live music is also requested during brunch hours between 9:00 a.m. and 3:00 p.m., Saturday and Sunday. The recommended hours of operation for live entertainment during the evening hours are

until 1:00 a.m., daily, with no other restrictions regarding the hours or type of live entertainment.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _ approving Minor Use Permit No. UP2012-029 (Attachment No. ZA 1).

DISCUSSION

- The subject property is located within the Fashion Island Shopping Center and is bounded by Newport Center Drive to the south. The area in the vicinity of the project site is developed with commercial retail uses within Fashion Island. Office uses are located across Newport Center Drive to the south.
- Fig & Olive will occupy a restaurant pad at the southern portion of Fashion Island. The nearest access to the restaurant is obtained from Newport Center Drive through a shopping center drive aisle to the southwest of the pad site. The area of the subject property is 0.99 acres. The property is developed with one restaurant pad building oriented away from Newport Center Drive toward the Fashion Island Shopping Center. A second restaurant pad (Red-O) is currently under construction for the pad building located on the adjacent property to the west
- The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed restaurant with alcoholic beverage sales and live entertainment is a use that serves local and regional residents and is consistent with this land use designation.
- The project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District. Fashion Island is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The restaurant with alcoholic beverage sales and live entertainment is a commercial use that is intended to serve visitors, residents, and employees in the broader regional area and, therefore, is consistent with the purposes of the North Newport Center Planned Community District for the Fashion Island Sub-Area.
- Eating and Drinking Establishments are permitted uses within the Fashion Island subarea of the North Newport Center Planned Community Zoning District. Pursuant to the Planned Community Text, live entertainment is included in the definition of "Commercial Recreation and Entertainment" which is a permitted use within the

Fashion Island subarea. Also pursuant to the Planned Community Text, the on-premise sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit.

- Staff believes the project is compatible with existing and allowed uses within Fashion Island. Other uses in the center include a variety of restaurants and retail uses within the Fashion Island Shopping Center. The Fashion Island Sub-Area is a regional commercial shopping center that is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The Police Department is familiar with the security plan in place for the overall center and conditions of approval are proposed to adequately manage the late hour component of the proposed restaurant.
- The subject property is located within Reporting District No. 39 (RD39) and generally, crime statistics are higher in this district than adjacent districts due to the higher concentration of commercial uses within North Newport Center. The Newport Beach Police Department is aware of this and has recommended approval of the restaurant. The alcohol related statistics for RD39 are incorporated into the factors for consideration in the draft resolution prior to the Zoning Administrator hearing (Attachment No. ZA 1). A map of the Reporting Districts, alcohol related statistics, and a memorandum, which includes the recommendation of the Police Department, are attached as Attachment Nos. ZA 3, 4, and 5, respectively.
- The proposed hours of operation are 9:00 a.m. to 2:00 a.m., daily. Due to the late hours of operation (after 11:00 p.m.), approval of an operator's license by the Newport Beach Police Department will be required should this minor use permit be approved. An operator license required pursuant to NBMC Chapter 5.25 may be subject to additional and/or more restrictive conditions to regulate and control potential nuisances associated with the operation of the restaurant.
- While the proposed restaurant is not considered a bar, tavern, or lounge by definition (a Type 47 (On Sale General) alcohol license is requested as part of a bona fide eating establishment), Staff recognizes that the proposed floor plan, hours of operation, and typical operation of the Fig & Olive Restaurant and many restaurants often contribute to a bar/lounge style component following typical dinner hours in the evening. While the proposed hours of operation for Fig & Olive are later than the hours for other restaurants within Fashion Island, Staff and the Police Department have reviewed the minor use permit request with this component in mind and are recommending approval at the project location.
- Occasional live entertainment consisting of live music for brunch patrons and a disc jockey during later evening hours is also proposed. Staff recommends limiting the hours of operation for live entertainment during the evening hours to end at 1:00 a.m., daily, to encourage patrons to leave in compliance with the 2:00 a.m. closing hour.

Given that live entertainment is allowed by right within the North Newport Center Planned Community, Staff recommends that live entertainment not be limited by type. Additionally, Chapter 5.28 (Live Entertainment Establishments) of the Newport Beach Municipal Code, the live entertainment permit, and the operator license will all provide tools to address any issues that may occur. The applicant will be required to obtain a live entertainment permit from the Revenue Division prior to the issuance of building permits.

- The proposed project complies with the development standards for on-sale alcohol sales and outdoor dining provided in Section 20.48.030 (Alcohol Sales) of the Zoning Code. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol related impacts.
- The proposed outdoor dining patio and restaurant are within the cumulative floor area limits allocated for Fashion Island. Fair share and San Joaquin Transportation corridor fees will be assessed prior to the issuance of tenant improvement building permits for additional gross floor area beyond the floor area identified for the construction of the restaurant shell building.
- The Fashion Island shopping center provides required parking within the surface parking lots and parking structures on site.
- If approved, Minor Use Permit No. UP2012-029 (PA2012-163) will supersede Use Permit No. UP1860 for Coco's Restaurant, which has been demolished.

ENVIRONMENTAL REVIEW

The project qualifies for Class 1 (Existing Facilities) categorical exemption, Section 15301 of the California Environmental Quality Act. The proposed project involves the addition of alcoholic beverages at a recently constructed restaurant with live entertainment and an outdoor dining patio. Therefore, both the interior use and outdoor dining patio qualify for a categorical exemption under Class 1.

PUBLIC NOTICE

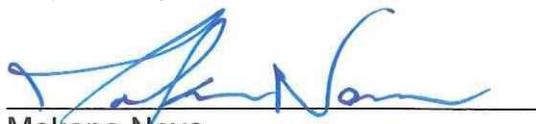
Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD:

An appeal may be filed with the Director of Community Development within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:



Makana Nova
Assistant Planner

GR/mkn

Attachments:

- ZA 1 Draft Resolution
- ZA 2 Vicinity Map
- ZA 3 Police Department Reporting Districts
- ZA 4 Alcohol Related Statistics
- ZA 5 Police Department Recommendation
- ZA 6 Site Photos
- ZA 7 Project Plans

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2013-0##

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-029 TO ALLOW A TYPE 47 (ON SALE GENERAL) ALCOHOLIC BEVERAGE CONTROL LICENSE AT A NEW FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT LOCATED AT 151 NEWPORT CENTER DRIVE (PA2012-163)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bob Lisle, representing the Irvine Company, with respect to property located at 151 Newport Center Drive, and legally described as Parcel 2 of Lot Line Adjustment No. LA2012-005, Recorded September 11, 2012 as Instrument No. 2012000528643 of official records, in the office of the County Recorder of the County of Orange, requesting approval of a minor use permit.
2. The applicant requests a minor use permit to allow a Type 47 (On Sale General) Alcoholic Beverage Control (ABC) license for Fig & Olive, a food service, eating and drinking establishment with late hours (after 11:00 p.m.), live entertainment, and an outdoor dining patio. The restaurant is under construction and will be located in Fashion Island at the site formerly occupied by Coco's, which was operated as a restaurant with alcohol beverage sales. The restaurant will be 9,619 gross square feet with a 2,656 square foot outdoor patio area. The hours of operation will be from 9:00 a.m. to 2:00 a.m., daily. Live entertainment in the form of live music during brunch hours between 9:00 a.m. and 3:00 p.m., Saturday and Sunday is requested. The recommended hours of operation for live entertainment during the evening hours are until 1:00 a.m., daily, with no other restrictions regarding the hours or type of live entertainment. Due to the late hours of operation (after 11:00 p.m.), approval of an Operator's License by the Newport Beach Police Department will be required.
3. The subject property is located within the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 28, 2013 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. The proposed project involves the addition of alcoholic beverages at a recently constructed restaurant with live entertainment and an outdoor dining patio. Therefore, both the interior use and outdoor dining patio qualify for a categorical exemption under Class 1.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The proposed establishment is located within Reporting District 39, wherein the number of crimes is higher than adjacent Reporting Districts and the City. RD 43, 44, and 47 have a lower number of crimes as they are primarily residential with few commercial uses. Due to the high concentration of commercial land uses in Fashion Island, the crime rate and shoplifting rate is greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. The Police Department does not consider the rate high because of the concentration of restaurants and commercial uses within Fashion Island and the surrounding North Newport Center. The Newport Beach Police Department has not previously reported any calls for service to the subject property since the proposed use is part of a new development project.

- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. The shopping center does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. Residential uses are permitted in the northern sections of the PC-56 (North Newport Center Planned Community) Zoning District within Blocks 500, 600, 800, and San Joaquin Plaza. The proposed use is not located in close proximity to these residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. Muldoon's Irish Pub is located at 202 Newport Center Drive to the south of the project site at the intersection of Anacapa and Newport Center Drive. Muldoon's is authorized to operate until 2:00 a.m. and provides live entertainment, dancing, and Type 47 (On Sale General) and Type 68 (Portable Bar) alcohol licenses. Off-sale alcohol sales are located in the vicinity at Whole Foods, at 461 Newport Center Drive, within Fashion Island. Additionally, there are many comparable restaurant establishments with the Fashion Island Shopping Center. These include other pad restaurant tenants such as Roy's Hawaiian Fusion, Flemming's Steak House, and True Food Kitchen. The Type 47 (On Sale, General) alcohol license requested is the same as those obtained for said establishments and there is no evidence suggesting these uses have been detrimental to the neighborhood. However, Fig & Olive is the only location with late hours after 12:00 midnight within Fashion Island. While the proposed hours of operation are later, an adequate security plan per the Police Department is in place for the Fashion Island Shopping Center and conditions of approval are proposed to adequately manage the late hour component of the proposed restaurant.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions*
1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol related impacts.
 2. The restaurant use will be located within a shopping center designated to include such development. The Regional Commercial (CR) designation of the General Plan allows eating and drinking establishments. The service and consumption of alcohol at the proposed restaurant, pursuant to a Type 47 Alcoholic Beverage Control license under the conditions imposed by this Minor Use Permit that it will be operated and

maintained, complies with the provisions of the Zoning Code and the North Newport Center Planned Community District Regulations.

3. The restaurant pad is adjacent to a highly-traveled commercial area that is occupied by a mixture of office and retail uses. It is anticipated that the establishment will serve visitors and employees of the nearby businesses who stop and eat within the North Newport Center area. Adding alcohol service to the menu will compliment the food service and provide for the convenience of customers.
4. The proposed restaurant is located within a new restaurant pad building currently under construction and is designed as a restaurant that includes on-site service and consumption of alcoholic beverages.

Minor Use Permit

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

B. The use is consistent with the General Plan and any applicable specific plan:

Facts in Support of Finding

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed restaurant with alcoholic beverage sales and live entertainment is a use that serves local and regional residents and is consistent with land uses in the CR land use designation.

Finding

C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code:

Facts in Support of Finding

1. The project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District. Fashion Island is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The restaurant with alcoholic beverage sales and live entertainment is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent with the purposes of the North Newport Center Planned Community District for the Fashion Island Sub-Area.

2. Eating and Drinking Establishments are permitted uses within the Fashion Island Sub-Area of the North Newport Center Planned Community Zoning District. Pursuant to the Planned Community Text, live entertainment falls beneath the definition of "Commercial Recreation and Entertainment" which is a permitted use within the Fashion Island subarea. Pursuant to the Planned Community Text, the on-premise sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit.
3. The proposed outdoor dining area and the restaurant area are within the limits of the cumulative floor area allocated for Fashion Island.

Finding

- D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity:*

Facts in Support of Finding

1. The Fashion Island Sub-Area permits a range of retail, dining, and commercial entertainment uses within the PC-56 (North Newport Center Planned Community) Zoning District. While the proposed establishment provides a component of late night dining services similar to a lounge, the use is compatible with surrounding permitted commercial uses in the vicinity and there are no sensitive land uses located nearby.
2. The proposed hours of operation are 9:00 a.m. to 2:00 a.m., daily. While the proposed hours of operation for Fig & Olive are later than the hours for other restaurants within Fashion Island, an adequate security plan is in place for the Fashion Island Shopping Center and conditions of approval are proposed to adequately manage the late hour component of the proposed restaurant.
3. Due to the late hours of operation (after 11:00 p.m.), approval of an Operator's License by the Newport Beach Police Department will be required. A copy of the Fashion Island Security Plan will be provided as part of the operator license process for the proposed business. An operator license required pursuant to NBMC Chapter 5.25 may be subject to additional and/or more restrictive conditions to regulate and control potential nuisances associated with the operation of the restaurant. The operator license will help ensure compatibility of the proposed business with the surrounding uses in the vicinity.
4. Live entertainment in the form of live music is requested during brunch hours between 9:00 a.m. and 3:00 p.m., Saturday and Sunday. The recommended hours of operation for live entertainment during the evening hours are until 1:00 a.m., daily, to encourage patrons to leave in compliance with the 2:00 a.m. closing hour.
5. The on-site consumption of alcoholic beverages will be incidental to the restaurant use. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food

during the same period, per the conditions of approval. Alcoholic beverage service will be under the supervision of LEAD-trained employees.

Finding

E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities:

Facts in Support of Finding

1. The Fashion Island shopping center provides adequate parking and circulation within the surface parking lots and parking structures on site.
2. This site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided. Utilities are provided with all applicable requirements.
3. The site has historically been developed and used as a restaurant location with alcohol service and the new building under construction is intended for the same use. The tenant space is designed and developed for an eating and drinking establishment.
4. Improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The food service, eating and drinking establishment with alcohol service will serve visitors and the surrounding business community. The proposed establishment will provide alcohol service as a public convenience to visitors and workers within the surrounding area.

3. Fashion Island management has historically provided efficient on-site security and cooperates with the Newport Beach Police Department. The provision of an operator license will further enable the Police Department to regulate the operation of the proposed business.
4. The applicant is required to install a grease interceptor, obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-029 (PA2012-163), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit No. UP1860, which upon vesting of the rights authorized by Minor Use Permit No. UP2012-029 (PA2012-163), shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 28th DAY OF FEBRUARY, 2013.

Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division Conditions

1. This approval supersedes Use Permit No. UP1860.
2. 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.)
3. Alcohol service shall be limited to a Type 47 (On Sale General) Alcoholic Beverage Control License.
4. The hours of operation shall be limited to between 9:00 a.m. to 2:00 a.m., daily.
5. Live entertainment shall be permitted at the subject property from 11:00 a.m. to 1:00 a.m., daily. There shall be no live entertainment allowed on the premises without first obtaining a Live Entertainment Permit from the City. Prior to the issuance of building permits for the change of occupancy, the applicant shall obtain a Live Entertainment Permit from the Revenue Division.
6. The operator as well as any future operators of the restaurant shall obtain an Operator License pursuant to Chapter 5.25 of the Municipal Code to ensure the business is operated in a safe manner. The Operator License may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the theater.
7. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for any additional gross floor area associated with the restaurant and mezzanine in accordance with Chapter 15.38 of the Newport Beach Municipal Code. The applicant shall be credited for square footage identified in the restaurant pad shell building under Plan Check No. 1365-2012 and the remaining balance shall be charged to the applicant.
8. Prior to the issuance of building permits, San Joaquin Transportation Corridor Fees shall be paid for any additional gross floor area associated with the restaurant and mezzanine. The applicant shall be credited for square footage identified in the restaurant pad shell building under Plan Check No. 1365-2012 and the remaining balance shall be charged to the applicant.
9. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the Zoning Administrator first approves an amended minor use permit. This Minor Use Permit shall be terminated if the operation is no longer maintained as a "bona fide public eating place" as defined by the California Department of Alcoholic Beverage Control.

10. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
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. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of this restaurant business that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
13. There shall be no dancing allowed on the premises.
14. 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.
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. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
17. 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.
18. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 of the Municipal Code, Community Noise Control.

19. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
20. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
21. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
22. Storage outside of the building shall be prohibited, with the exception of the required trash container enclosure.
23. 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.
24. The alcoholic beverage outlet operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the alcoholic beverage outlet and adjacent properties, if directly related to the patrons of the subject alcoholic beverage outlet.
25. All proposed signs shall be in conformance with the provisions of the PC-56 (North Newport Center Planned Community), Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code, or an approved Comprehensive Sign Program for the project site.
26. 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 permit.
27. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit, upon a determination that the operation which is subject of this Minor Use Permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
28. Any changes in operational characteristics, hours of operation, expansion in area, or modification to the floor plan, shall require an amendment to this Minor Use Permit, unless otherwise approved by the Planning Division.

29. Should the business, subject to the Minor Use Permit conditioned herein, be sold or otherwise come under different ownership or a change in operators, any future owners, operators, or tenants shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
30. This Minor Use Permit shall expire unless exercised within twenty-four months from the date of approval as specified in Section 20.91.50 of the Newport Beach Municipal Code.
31. 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 Fig & Olive Minor Use Permit including, but not limited to, the Minor Use Permit No. UP2012-029 (PA2012-163). 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.

Building Division and Fire Department Conditions

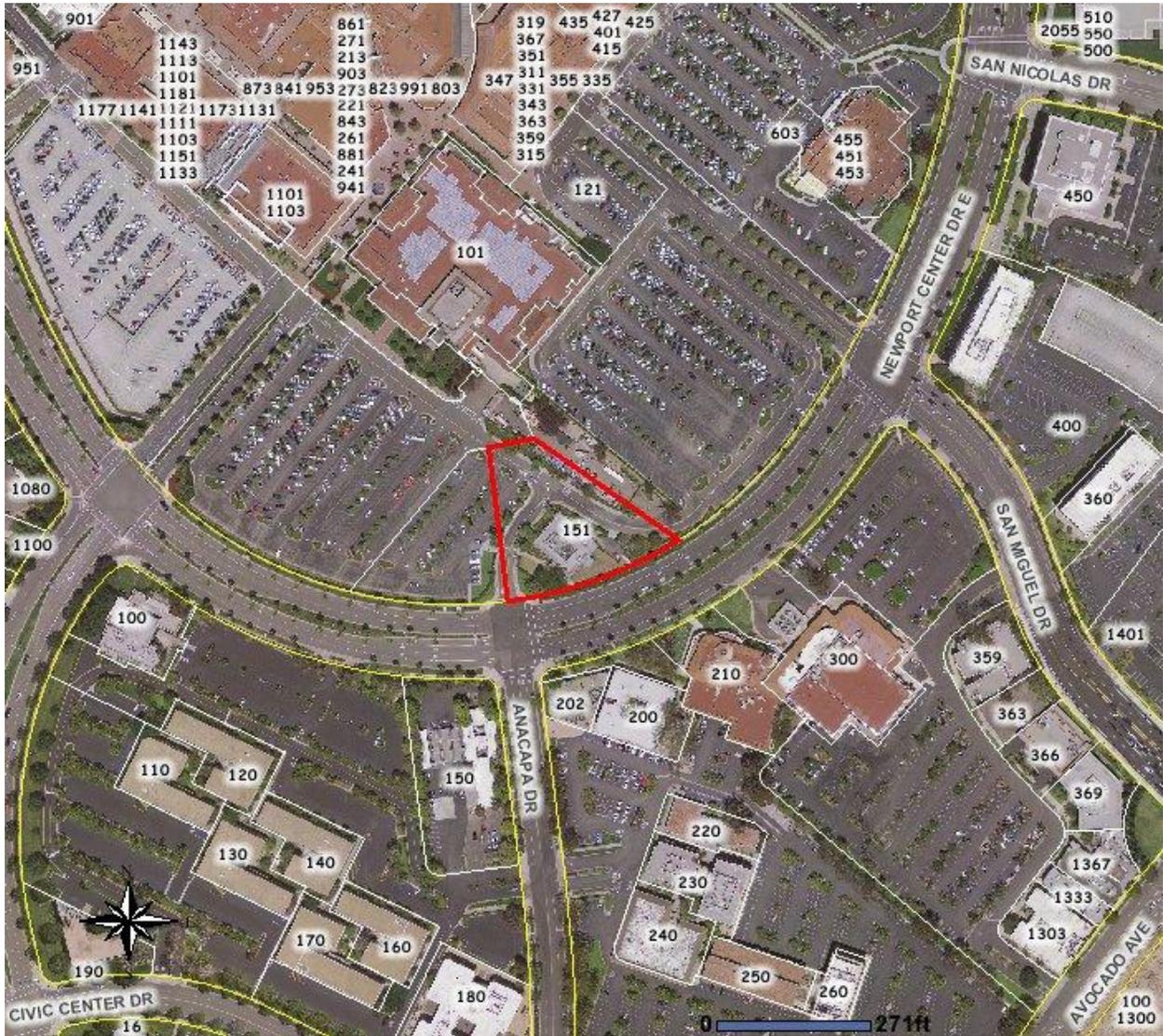
32. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
33. A covered wash-out area (36 inches wide by 36 inches deep by 6 feet high) for refuse containers and kitchen equipment shall be provided and shall drain directly into the sewer system, unless otherwise approved by the Community Development Director and Public Works Director in conjunction with the approval of an alternative drainage plan. The washout area shall be specifically shown on the construction drawings submitted for building permits.
34. The facility shall comply with the provisions of Chapter 14.30 of the Municipal Code for commercial kitchen grease disposal, as determined by the Building Division and the Utilities Department.
35. The restaurant shall provide the number of plumbing fixtures to satisfy the requirements of Chapter 4 of the California Building Code, 2010.

36. Prior to issuance of building permits, an exit analysis shall be provided for the outdoor dining patio.
37. The site plan shall clearly identify the parking, path of travel, entrance, restrooms, fixed seating, and bar seating to comply with accessibility requirements.
38. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division.
39. The project shall comply with State Disabled Access requirements.
40. Approval is required by the Health Department.
41. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Division.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



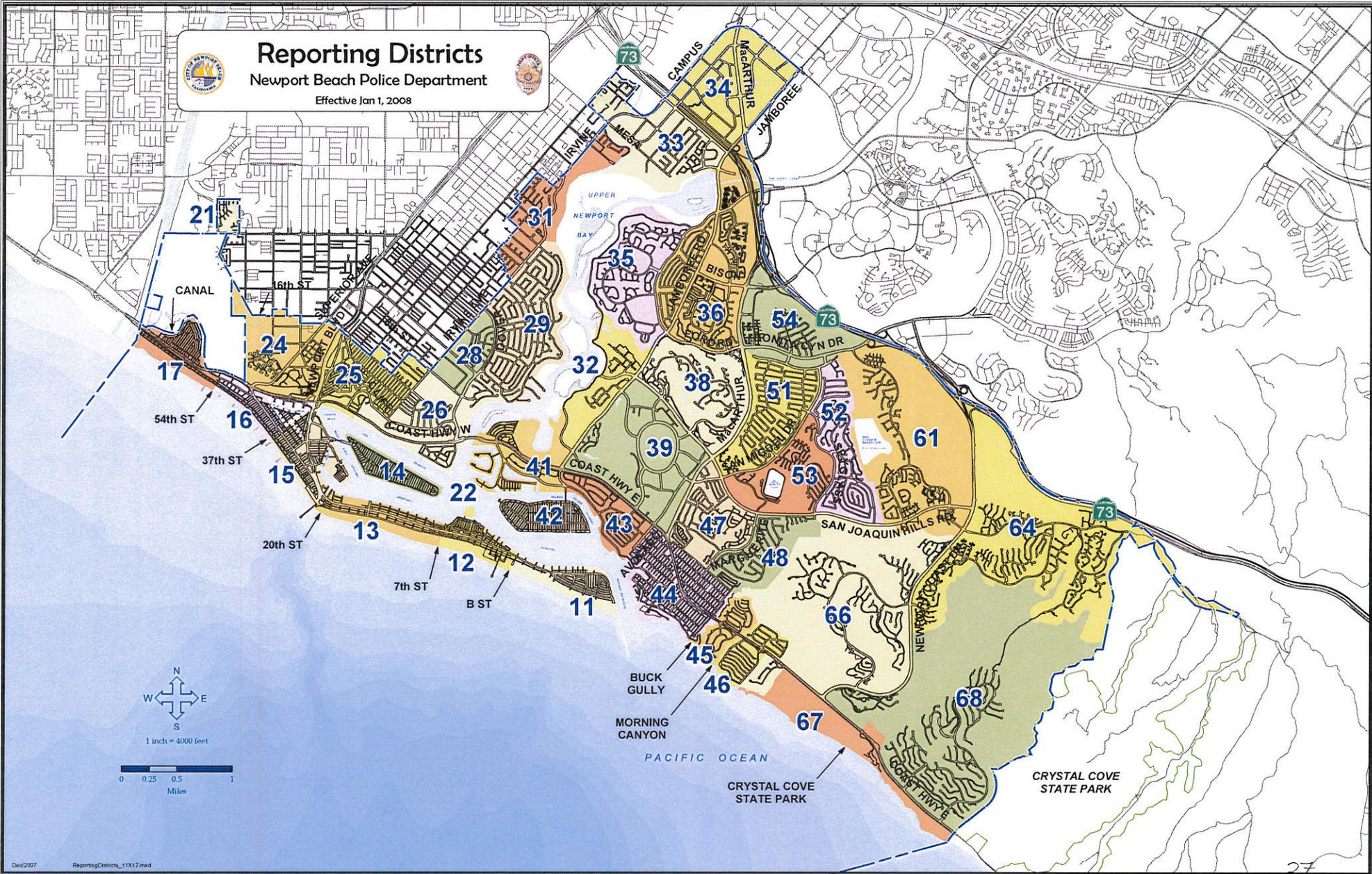
Minor Use Permit No. UP2012-029
PA2012-163

151 Newport Center Drive

Attachment No. ZA 3

Police Department Reporting Districts

Reporting Districts
 Newport Beach Police Department
 Effective Jan 1, 2008



Attachment No. ZA 4

Alcohol Related Statistics



Chief Jay R. Johnson

NEWPORT BEACH POLICE DEPARTMENT

Crime Analysis Unit

870 Santa Barbara Drive · Newport Beach · CA 92660 · 949-644-3791



CRIME AND ALCOHOL-RELATED STATISTICS - 2012

Subject:	Calls For Service	Crimes			Arrests				Citations	ABC Info	
		Part I Crimes	Part II Crimes	Crime Rate	All Arrests	DUI	Public Intoxication	Liquor Law	Alcohol Related	Active Licenses	License Per Capita
Fig and Olive	7	0	0	<i>not applicable</i>	0	0	0	0	0	1	<i>not applicable</i>
Subject RD: RD39	5,932	176	216	8,290.16	193	23	35	0	14	36	59
Adjacent RD: RD43	647	17	18	884.50	14	5	1	0	1	5	384
Adjacent RD: RD44	4,342	119	200	1,857.34	164	27	45	2	84	26	246
Adjacent RD: RD47	617	12	19	352.42	16	1	1	0	1	3	1,135
Newport Beach	68,888	2,331	3,586	2,730.28	3,280	446	856	14	1,079	394	217
California	<i>not available</i>	1,128,845	<i>not available</i>	2,994.92	1,183,470	104,345	99,017	15,904	<i>not available</i>	44,536	836
National	<i>not available</i>	10,266,737	<i>not available</i>	3,294.93	12,408,899	1,215,077	534,218	500,648	<i>not available</i>	<i>not applicable</i>	<i>not applicable</i>

Summary for Fig and Olive at 151 Newport Center Drive (RD39)

In 2012, RD39 had a total of 392 reported crimes, compared to a city-wide reporting district average of 152 reported crimes. This reporting district is 240 crimes, or 158%, OVER the city-wide average.

The number of active ABC licenses in this RD is 36, which equals a per capita ratio of one license for every 59 residents. Orange County averages one license for every 504 residents and California averages one license for every 836 residents. This location is within an RD that is OVER the Orange County and California per capita averages of ABC licenses.

Notes:

Part I Crimes are the 8 most serious crimes as defined by the FBI Uniform Crime Report - Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Auto Theft, and Arson.

This report reflects City of Newport Beach data for calendar year 2012, which is the most current data available.

California and National figures are based on the 2011 Uniform Crime Report, which is the most recent edition.

Crime Rate refers to the number of Part I Crimes per 100,000 people.

Number of Active ABC Licenses is the total of all types of licenses known to the NBPD as of the date of this document.

Additional Information

Highest Volume Crime in RD39
Petty Theft (Shoplift)

Highest Volume Crime in RD44
Burglary/Theft From Motor Vehicle

Highest Volume Crime in RD43
Burglary/Theft From Motor Vehicle

Highest Volume Crime in RD47
Burglary/Theft From Motor Vehicle

Calls for Service at 151 Newport Center	
459A	2
904G	1
925	1
HAZARD	1
INFO	1
WELFARE	1
Grand Total	1

Attachment No. ZA 5

Police Department Recommendation

**City of Newport Beach
Police Department**

Memorandum

February 14, 2013

TO: Makana Nova, Assistant Planner

FROM: Detective Brian Haas

SUBJECT: Fig and Olive, 151 Newport Center Drive
Use Permit No. UP2012-029 (PA2012-163).

At your request, the Police Department has reviewed the project application for "Fig and Olive" restaurant, located at 151 Newport Center Drive, Newport Beach. Per the project description, the applicant is requesting a minor use permit to allow the establishment of a Type 47 (On-Sale General for Bona Fide Public Eating Place) ABC license for the planned "Fig and Olive" restaurant. "Fig And Olive" will be located at the site formerly occupied by "Coco's", which was operated as a restaurant with alcoholic beverage sales. The restaurant will be 8,474 square feet with a 2,656 square foot outdoor patio area. The proposed hours of operation will be from 9:00 a.m. to 2:00 a.m., Sunday through Saturday. Due to the late hours of operation (after 11:00 p.m.), approval of an Operator License by the Newport Beach Police Department is required.

The applicant is also proposing live entertainment which would include a DJ (Sunday through Saturday, 8:00 p.m. to 2:00 a.m.) and live music (Saturday and Sunday, 11:00 a.m. to 3:00 p.m. during brunch).

The applicant will apply for a Type 47 (On-Sale General for Bona Fide Public Eating Place) license with the Department of Alcoholic Beverage Control. This license includes beer, wine and distilled spirits for consumption on the licensed premises. The license will be conditioned appropriately to protect the health, safety and welfare of the community.

I have included a report by Crime Analyst Caroline Staub that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that this new location is within an area where the number of crimes is at least 158% above the City wide reporting district average. Additionally, this location is also within an RD that is over the Orange County per capita of ABC licenses. This RD amounts to 4.91% of DUI/Drunk arrests made in the entire City.

Applicant History

Fig and Olive currently operates restaurants in New York and West Hollywood. Fig and Olive recently partnered with the Irvine Company to open an exclusive Orange County location in the Fashion Island District in Newport Beach.

Fig and Olive will offer a menu of refined elegance with classic flavors and the highest quality of ingredients inspired by the Riviera and coastal regions of the Mediterranean. Fig and Olive will cater to the same upscale, discerning customer base that frequent the current businesses within Fashion Island.

Recommendations

The Police Department has no objection to the operation as described by the applicant. With the below listed conditions in place, the Police Department does not feel that the operation will have a negative impact on the community and police services.

Signs and Displays

Any signs or displays would need to conform to City requirements. 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.

Hours of Operation

The proposed hours of operation for the restaurant are from 9:00 a.m. to 2:00 a.m., Sunday through Saturday. The City may want to consider that the proposed hours of operation are inconsistent with similar establishments within Fashion Island. Restaurants such as Yard House and Flemings Steakhouse are open no later than midnight on Friday and Saturday nights. The Fig and Olive location in West Hollywood location is only open until 1:00 a.m. on Friday and Saturday nights.

Security

The Police Department has no recommendations. This location lies within Fashion Island, which currently has security operations in place.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Additional Comments

For the purposes of this application, staff may also want to consider establishing conditions that would require a Special Event Permit. A Special Event Permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form

of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Other Recommended Conditions

In addition, the Police Department has determined that the following conditions would be appropriate for the Conditional Use Permit for the business:

1. Approval does not permit Fig and Olive to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a use permit.
2. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
3. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when served in conjunction with food ordered from the full service menu.
4. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
5. 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.
6. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
7. There shall be no live entertainment allowed on the premises without first obtaining a permit through the City of Newport Beach.
8. There shall be no dancing allowed on the premises.
9. Strict adherence to maximum occupancy limits is required.
10. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
11. 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

Fig and Olive
UP2012-029

records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.

If you have any questions, please contact Detective Brian Haas at (949) 644-3709.



Dale Johnson, Captain
Detective Division Commander



Brian Haas, Detective
Vice/Intelligence/ABC

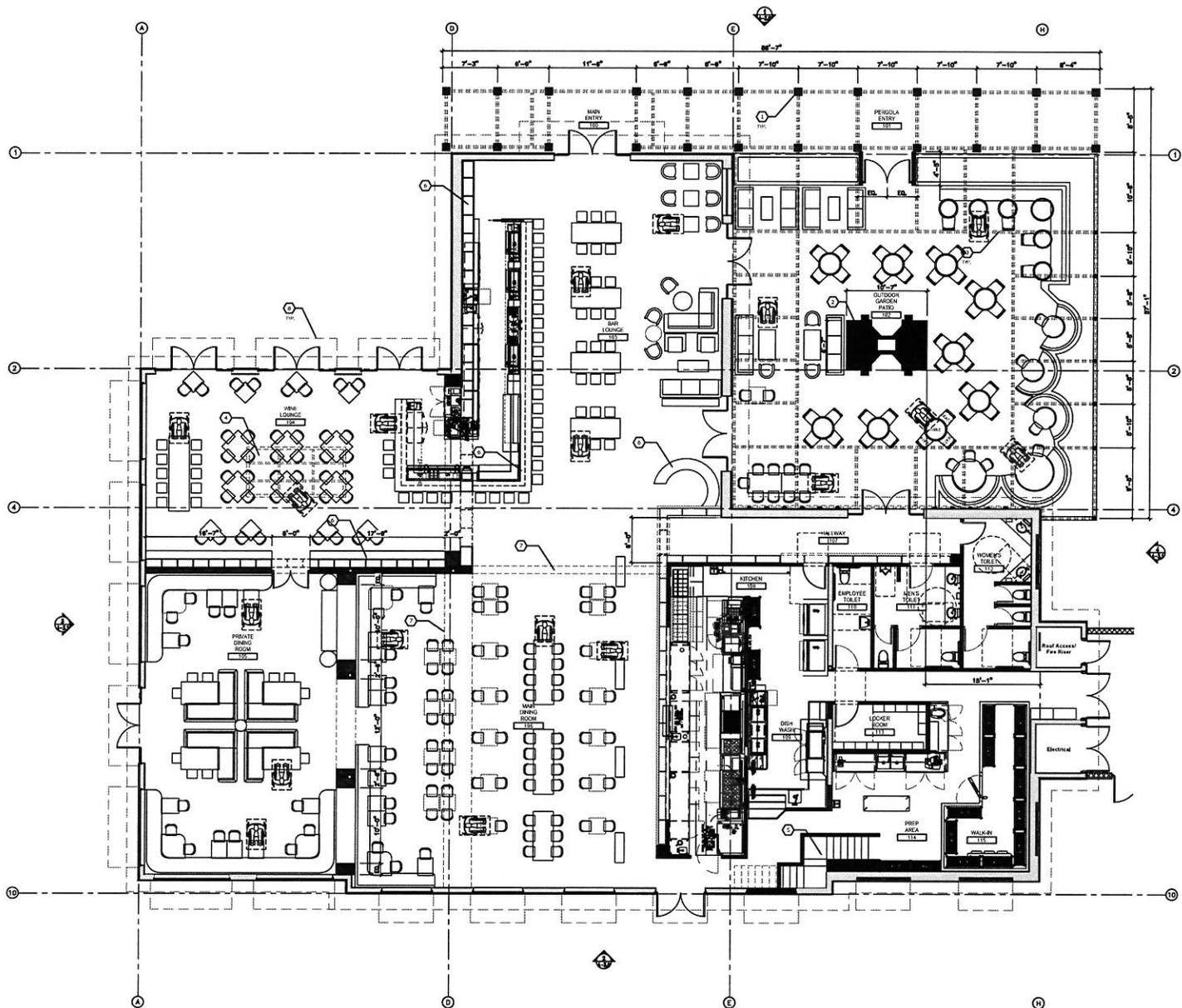
Attachment No. ZA 6

Site Photos



Attachment No. ZA 7

Project Plans



FLOOR PLAN
3/16" = 1'-0"



LEGEND:

- EXISTING STRUCT. WALL
- NEW STRUCT. WALL

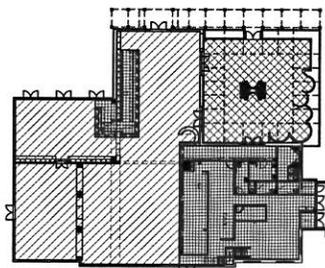
KEY NOTES:

- NEW PILE STRUCTURE COLUMN
- NEW DOUBLE GLAZED WINDOW
- NEW PILE STRUCTURAL ABOVE
- PROPOSED SKEWEDS ABOVE
- NEW SPARTAN TRAZZANNE ABOVE
- NEW SILENCE WALLWORK
- LINE OF NEW INTERIOR VERTICAL WALL
- LINE OF NEW HANGING AREA

BUILDING DATA

ACTUAL AREA:	ENCLOSED GROUND AREA:	8,674 SQ. FT.
	MEZZANINE AREA:	785 SQ. FT.
	GARDEN/PAVING AREA:	2,584 SQ. FT.
	TOTAL ACTUAL AREA:	12,043 SQ. FT.

FLOOR AREA DIAGRAM



NET PUBLIC INTERIOR AREA:	5,165 SQ. FT.
NET PUBLIC EXTERIOR AREA:	1,842 SQ. FT.
BACK-OF-HOUSE AREA:	2,977 SQ. FT.

DATE	DESCRIPTION
11/01/17	THIS DRAWING SUBMITTED

ARCHITECTURAL STAMP

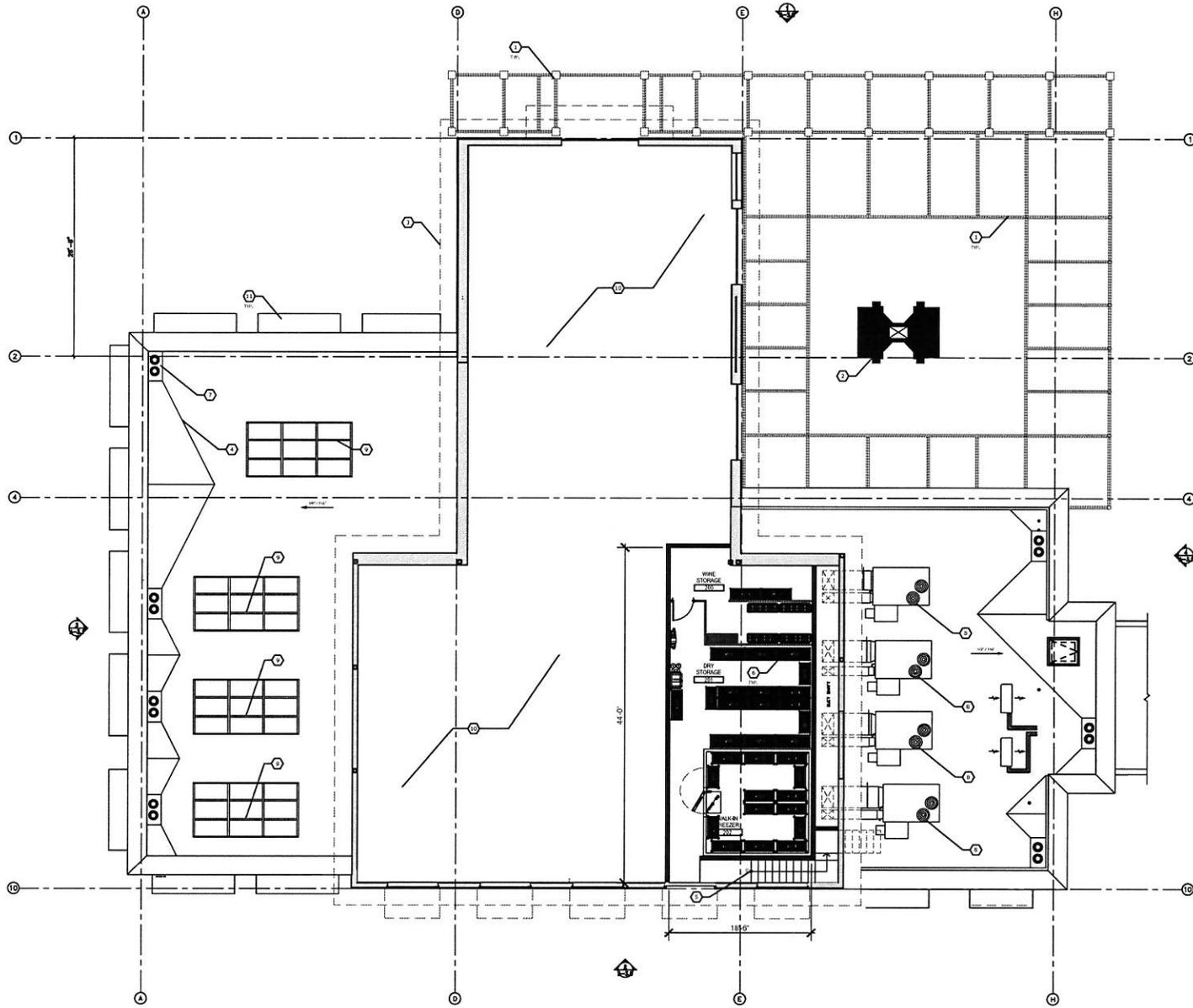
FIG & OLIVE
420 W. 13TH STREET
NEW YORK, NY 10014

FIG & OLIVE
NEWPORT BEACH
151 NEWPORT CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660

FLOOR PLAN

JOB NO.	11217
DATE	08-06-17
SCALE	AS SHOWN
DRAWN BY	VC
CHECKED BY	VC
SHEET NO.	1/10

A-20



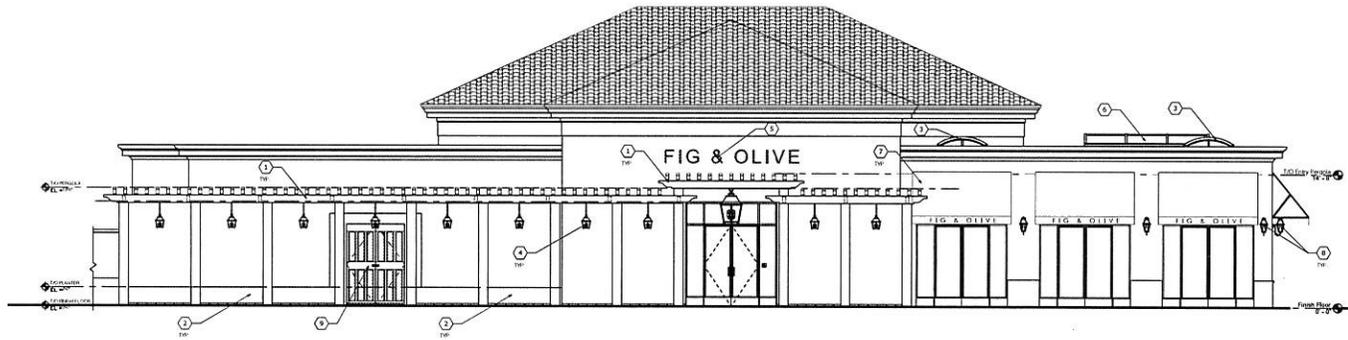
MEZZANINE FLOOR PLAN
3/16" = 1'-0"

LEGEND:

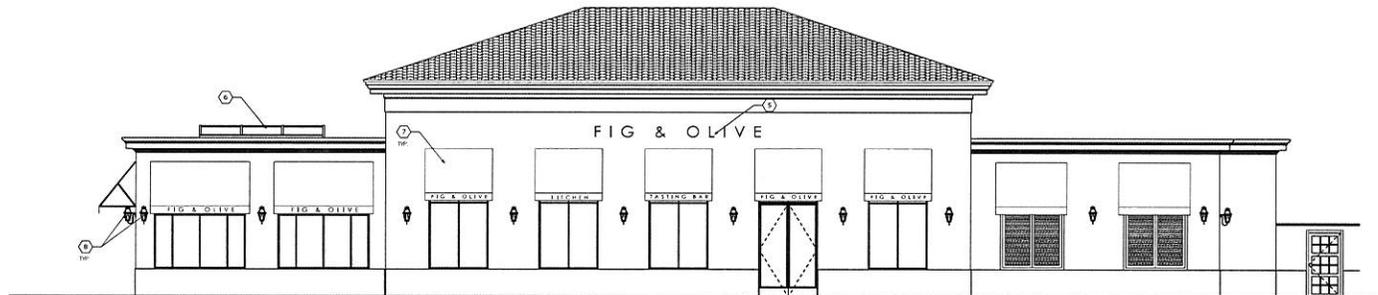
- EXISTING STUD WALL
- NEW STUD WALL

KEY NOTES:

- NEW TRUSS STRUCTURE BELOW
- NEW/REBUILD BIOD FIREPLACE
- LINE OF EXISTING CORNER ABOVE
- EXISTING ROOF CRACK, TYP
- NEW STAIR TO KITCHEN BELOW
- NEW STORAGE RACKS
- EXISTING HOOF DOWN
- EXISTING HANG EQUIPMENT
- EXISTING SKEW SITS
- OPEN TO BELOW
- NEW RIBBING BELOW



1 NORTH ELEVATION
3/16" = 1'-0"

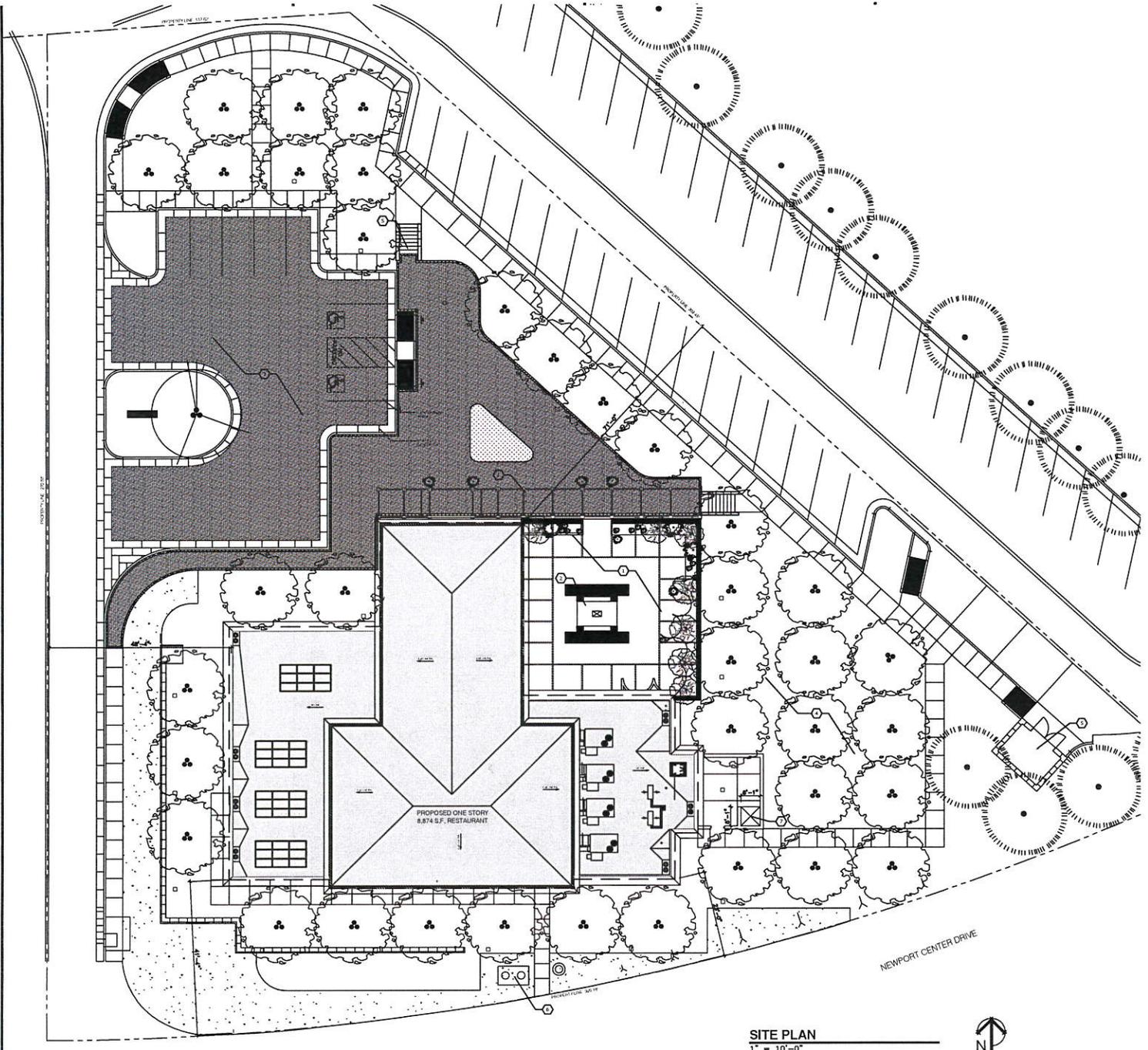


2 SOUTH ELEVATION
3/16" = 1'-0"

KEY NOTES:

- NEW TRUSS STRUCTURE
- NEW PLASTER BOX
- PROPOSED SLOUGHTS
- NEW HANGING LIGHT FIXTURES
- PROPOSED SIGNAGE LOCATION
- EXISTING SLOUGHTS
- NEW HANGINGS
- NEW WALL SCIENCE
- NEW ENTRY GATES

ADDITIONAL
MATERIALS
RECEIVED



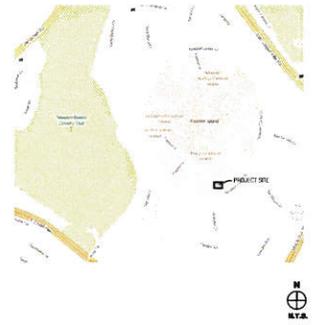
SITE PLAN
 1" = 10'-0"



KEY NOTES:

- NEW GREENPARKS AND TRELLIS STRUCTURE
- NEW OVERCOORFF PLACE
- EXISTING MOTOR COOL AIR SERVICE
- EXISTING CURB, GROUND, AND LANDSCAPE
- EXISTING ENCLOSED TRASH ENCLOSURE WITH SOLID DECOMPOSE HOP
- EXISTING GARAGE INTERCEPTOR
- EXISTING WASHOUT AREA

VICINITY MAP



PLANNING & DESIGN

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 California 91381
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11/15/12	FINAL PRELIMINARY SUBMITTAL
11/15/12	FINAL PRELIMINARY SUBMITTAL
11/15/12	FINAL PRELIMINARY SUBMITTAL

DATE	DESCRIPTION
11/15/12	FINAL PRELIMINARY SUBMITTAL
11/15/12	FINAL PRELIMINARY SUBMITTAL
11/15/12	FINAL PRELIMINARY SUBMITTAL

ARCHITECTURAL STAMP

FIG & OLIVE
 420 W. 13TH STREET
 NEW YORK, NY 10014

CUSTOMER NAME

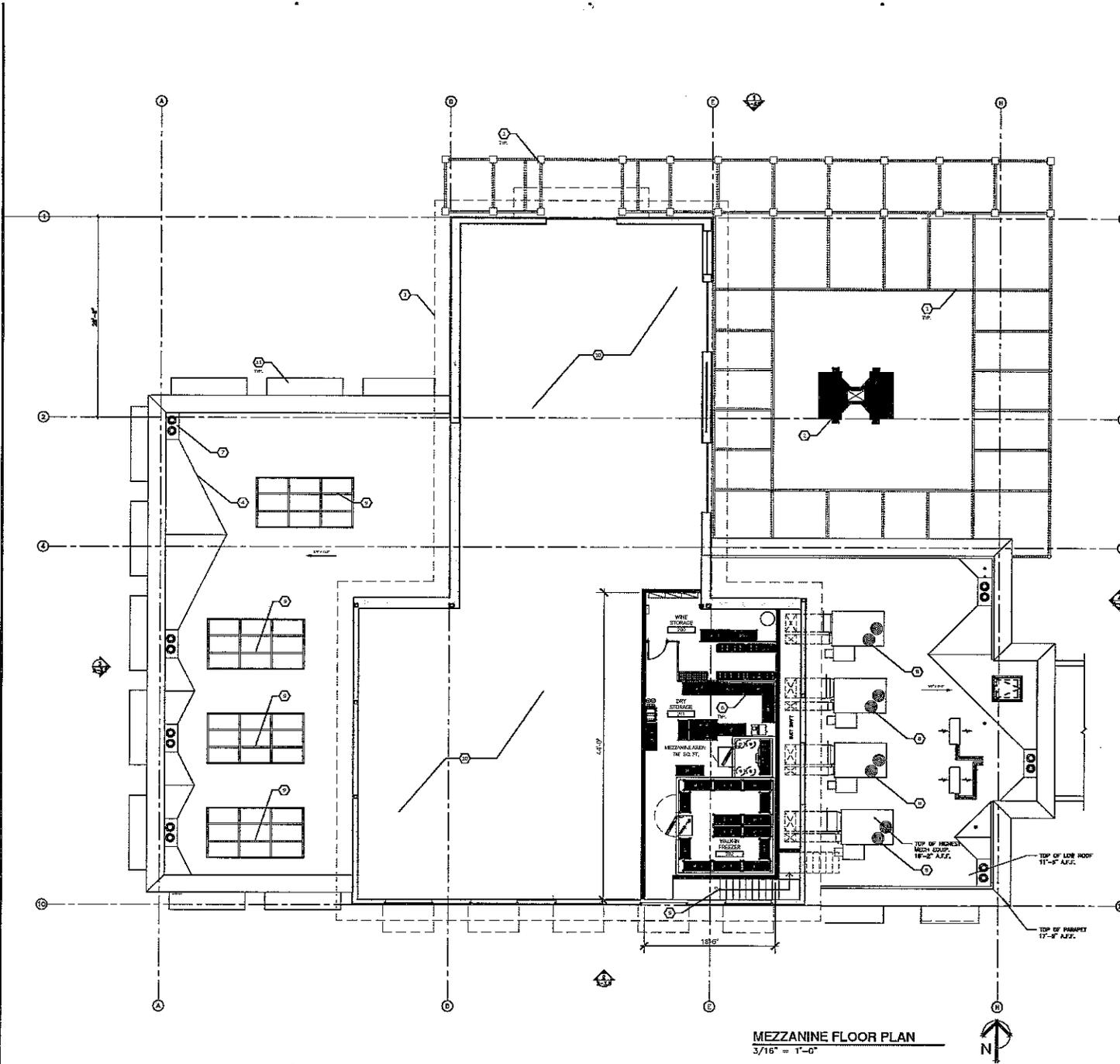
FIG & OLIVE
 NEWPORT BEACH
 151 NEWPORT CENTER DRIVE
 NEWPORT BEACH, CALIFORNIA 92660

PROJECT TITLE

SITE PLAN

DATE	DESCRIPTION
11/15/12	FINAL PRELIMINARY SUBMITTAL
11/15/12	FINAL PRELIMINARY SUBMITTAL
11/15/12	FINAL PRELIMINARY SUBMITTAL

A-10



LEGEND:

- EXISTING WALL
- NEW WALL

KEY NOTES:

- 1. NEW STRUCTURE BELOW
- 2. NEW/EXISTING TRUSSE
- 3. LINE OF EXISTING CONCRETE FLOOR
- 4. EXISTING FLOOR CEILING, 11'-0" AFF.
- 5. NEW/EXISTING CONCRETE FLOOR
- 6. NEW STORAGE BAY
- 7. EXISTING FLOOR FINISH
- 8. EXISTING MECH. EQUIPMENT
- 9. EXISTING BUILDING
- 10. OPEN BELOW
- 11. NEW FINISH FLOOR



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11/11/12	ISSUE FOR PERMIT
11/11/12	ISSUE FOR PERMIT

ARCHITECTURAL STAMP

CLIENT NAME:
FIG & OLIVE
 420 W. 13TH STREET
 NEW YORK, NY 10014

PROJECT TITLE:
MEZZANINE FLOOR PLAN

PROJECT TITLE:
FIG & OLIVE
 NEWPORT BEACH
 181 NEWPORT CENTER DRIVE
 NEWPORT BEACH, CALIFORNIA 92660

PROJECT TITLE:
MEZZANINE FLOOR PLAN

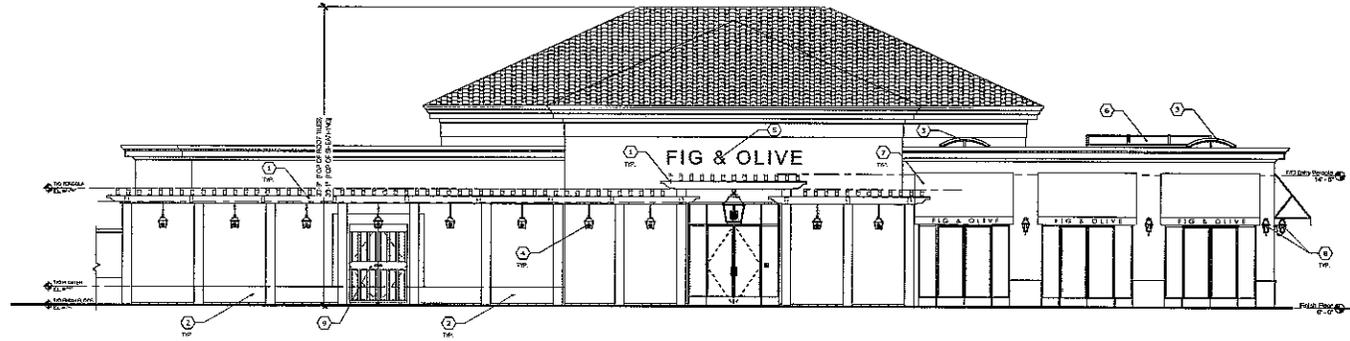
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ARCHITECTURAL STAMP

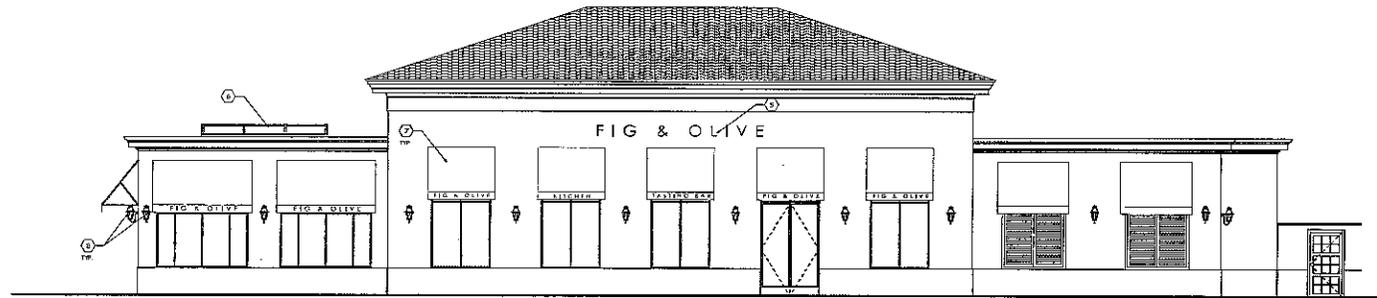
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FIG & OLIVE
 420 W. 13TH STREET
 NEW YORK, NY 10014

PROJECT TITLE:
MEZZANINE FLOOR PLAN

PROJECT TITLE:
FIG & OLIVE
 NEWPORT BEACH
 181 NEWPORT CENTER DRIVE
 NEWPORT BEACH, CALIFORNIA 92660



1 NORTH ELEVATION
 3/16" = 1'-0"



2 SOUTH ELEVATION
 3/16" = 1'-0"

KEY NOTES:

- ① NEW TRUSS BRACKETS
- ② NEW PLASTER BOX
- ③ HORIZONTAL BRACKETS
- ④ NEW HANGING LIGHT FIXTURES
- ⑤ HORIZONTAL BRIDGE LOCATION
- ⑥ FLOOR BRACKETS
- ⑦ NEW SHINGLES
- ⑧ NEW WALL BRIDGE
- ⑨ NEW BRICKWORK



PLANNING & DESIGN

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 Stevenson Ranch
 California 91384
 tel: 213 467 4758
 11000 STEVENSON BLVD STE 100

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DATE: 11/01/12

PROJECT: 11/01/12

CLIENT: 11/01/12

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DATE: 11/01/12

PROJECT: 11/01/12

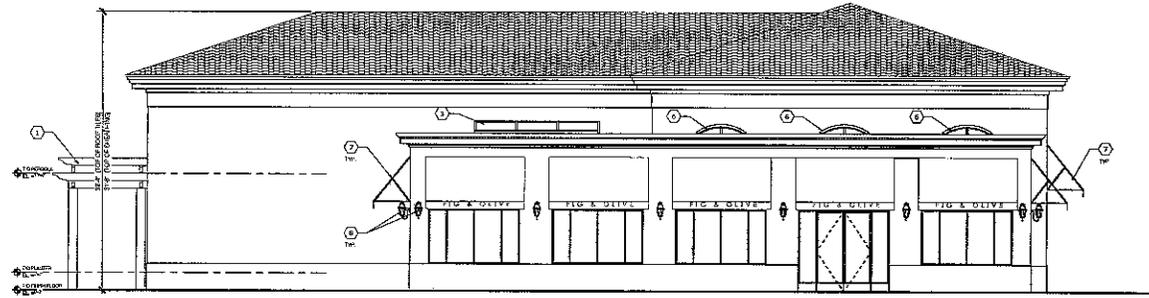
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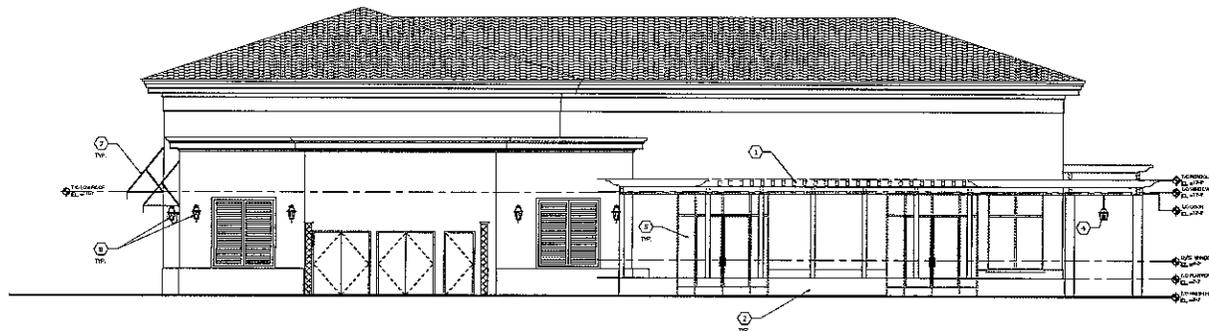
CLIENT NAME:
FIG & OLIVE
 420 W. 13TH STREET
 NEW YORK, NY 10014

PROJECT TITLE:
FIG & OLIVE
 NEWPORT BEACH
 161 NEWPORT CENTER DRIVE
 NEWPORT BEACH, CALIFORNIA 92660

SHEET TITLE:
NORTH & SOUTH
ELEVATIONS



3 WEST ELEVATION
 3/16" = 1'-0"



4 EAST ELEVATION
 3/16" = 1'-0"

KEY NOTES:

- ⊗ NEW WELLS STRUCTURE
- ⊗ NEW FLARE/ROCK
- ⊗ PROPOSED SLOPES
- ⊗ NEW WELLS LIGHT FIXTURES
- ⊗ PROPOSED OPENING BEAMS
- ⊗ EXISTING SLOPES
- ⊗ NEW AIRWAYS
- ⊗ NEW WELLS SEALS

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FIG & OLIVE
 420 W. 18TH STREET
 NEW YORK, NY 10014

FIG & OLIVE
 NEWPORT BEACH
 151 NEWPORT CENTER DRIVE
 NEWPORT BEACH, CALIFORNIA 92660

EAST & WEST
 ELEVATIONS

JOB NO. 11-01
 DATE 11-01-12
 SCALE 3/16" = 1'-0"
 DRAWN BY
 CHECKED BY
 SHEET NO.

A-3-1