



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending August 26, 2016

**ZONING ADMINISTRATOR ACTIONS
AUGUST 25, 2016**

- Item 1: 2007 Diana Lane Modification Permit No. MD2016-009 (PA2016-106)
Site Address: 2007 Diana Lane
- Action: Approved by Resolution No. ZA2016-047 Council District 3
- Item 2: Royal Hen Minor Use Permit No. UP2016-033 (PA2016-128)
Site Address: 311 Marine Avenue
- Action: Approved by Resolution No. ZA2016-048 Council District 5
- Item 3: Annual Review of Development Agreement for Hoag Memorial Hospital Presbyterian (PA2009-064)
Site Address: 1 Hoag Drive
- Action: *Continued to September 26, 2016 ZA Hearing* Council District 1, 2, 3

APPEAL PERIOD: An appeal 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 of time 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.

RESOLUTION NO. ZA2016-047

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2016-009 FOR A 25-PERCENT ADDITION TO AN EXISTING NONCONFORMING SINGLE-FAMILY RESIDENCE LOCATED AT 2007 DIANA LANE (PA2016-106)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JR Walz of Walz Architecture, with respect to property located at 2007 Diana Lane, and legally described as Lot 51 in Tract 1763 requesting approval of a modification permit.
2. The applicant proposes a modification permit to allow a 25-percent addition (497 square feet) to an existing single-family residence with nonconforming parking dimensions. The Zoning Code limits additions to 10 percent of the existing gross floor area when the required parking dimensions are not provided. The nonconforming garage provides an interior depth of 19 feet 2 inches and a width of 21 feet 6 inches. The Zoning Code requires 20 feet for both dimensions.
3. The subject property is located within the Single-Unit Residential (R-1-6000) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on August 25, 2016, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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 pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. This exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The

proposed project is a 497 square-foot addition to an existing single-family residence in a developed neighborhood and is not within an environmentally sensitive area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

1. The neighborhood is comprised of predominately one-story single-family dwellings. The Modification Permit will allow expansion of the existing one-story, single-family residence, which is compatible with other properties in the neighborhood.
2. The addition would increase the dwelling by 497 square feet to add a master bedroom and bathroom and convert an existing bedroom into a study. The proposed addition will comply with all applicable development standards including height, setbacks, and site coverage. The proposed addition will not intensify or alter the existing nonconforming parking or southeast side setback encroachment.
3. The proposed addition will result in a total floor area of approximately 2,451 square feet (including the 443-square-foot garage), which is equal or less than the bulk and scale of the other single-unit dwellings within the neighborhood.
4. The existing development on the property is a single-family dwelling. Therefore, there is no change to the density or intensity as a result of the proposed remodel and addition.

Finding:

- B. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

1. The interior dimensions of the existing two-car garage were compliant with the Newport Beach Zoning Code at the time of annexation in 1956. As a result of amendments to the Zoning Code in 2010, the two-car garage is now substandard in size and is considered legal nonconforming.

2. Moving the north garage wall that is not within the area of the proposed construction would be costly and significantly increase the scope of the project in order to gain 10 inches of garage depth.
3. Moving the south garage wall would further encroach into an already nonconforming side setback.
4. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two (2) vehicles.

Finding:

- C. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

1. The addition is expanding the structure towards the rear of the property on the north side. Increasing the depth of the garage to 20 feet would affect the south side of the property and result in a practical difficulty by requiring significant structural alterations to the structure and a significant expansion in the scope of work in order to increase the depth of the garage by approximately 10 inches.
2. The existing garage provides two (2) useable garage spaces only slightly less than the required width and fulfills the intent of the Zoning Code by providing adequate parking on-site. Approval of the Modification Permit allows the applicant to continue using the existing two-car garage, which has not proven detrimental to the occupants or neighbors of the dwelling.

Finding:

- D. *There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

1. The alternative would require that the applicant bring the existing two-car garage into conformance by expanding the garage depth. Expanding the garage depth would require significant alterations to the structure well beyond the scope of the planned addition. Expanding the depth of the garage further into the side setback is not feasible without review and approval of a variance.

2. The other alternative is to reduce the size of the addition to not more than 10 percent of the existing floor area of the structure and comply with the requirements of the Zoning Code. Given the intent of the project is to provide a master bedroom and bathroom, a redesign to reduce the size of the addition will significantly impact the project and not meet the objectives of the applicant.

Finding:

- E. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding:

1. The proposed one-story addition would maintain all required setbacks and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The existing nonconforming garage has not proven to be detrimental to the occupants of the property, nearby properties, the neighborhood, or the City and is adequate in depth to park two (2) vehicles.
3. The proposed addition will result in site coverage of 37 percent and that is less than the maximum 60 percent allowed by Zoning Code.
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2016-009, 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 (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 25th DAY OF AUGUST, 2016.

BY:



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

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. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior dimensions (19 feet, 2 inches deep by minimum 20 feet wide) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two (2) vehicles.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
5. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department, including for the existing improvements that were constructed without the benefit of building permits. 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.
6. 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 either the current property owner or the leasing agent.
7. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
8. 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 2007 Diana Lane Modification including, but not limited to, Modification Permit No. MD2016-009 (PA2016-106). 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.

PUBLIC WORKS DEPARTMENT

9. The existing fence located within the Diana Lane right-of-way shall be removed.
10. A new 36-inch box street tree shall be installed within the Diana Lane right-of-way per Council Policy G-6.

RESOLUTION NO. ZA2016-048

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2016-033 FOR AN ADDITION OF A BAR AREA AT AN EXISTING EATING AND DRINKING ESTABLISHMENT LOCATED AT 311 MARINE AVENUE (PA2016-128)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rita Restaurants LLC, with respect to property located at 311 Marine Avenue, and legally described as Lot 31 of Block 13 of Section 4 of Balboa Island, requesting approval of a minor use permit.
2. The applicant proposes to add a bar to the existing food service, eating and drinking establishment (restaurant) previously authorized under Use Permit No. UP 987. The hours of operation are proposed from 8:00 a.m. to 11:00 p.m., daily. No other changes to the operation are requested or proposed.
3. The subject property is located within the Mixed-Use Water Related (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed Use Water Related (MU-W2).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water Related (MU-W).
5. A public hearing was held on August 25, 2016 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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. Class 1 exempts minor alterations to existing facilities that involve negligible expansion of the use. The proposed project involves minor alterations to the interior floor plan of an existing restaurant, and therefore, qualifies for this exemption.

SECTION 3. REQUIRED FINDINGS.

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 such findings for a use permit are set forth:

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is MU-W2 (Mixed Use Water Related). The MU-W2 designation is intended for marine-related uses that may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. The food service use with alcohol and no late hours is consistent with this land use designation and will serve residents and visitors in the area.
2. The subject property is not part of a specific plan area.

Finding:

B. 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. Food service uses with alcohol service and no late hours are permitted with the approval of a minor use permit in the Mixed-Use Water Related (MU-W2) zoning district.
2. The existing restaurant operates pursuant to Use Permit No. UP 987, previously approved by the Planning Commission on October 17, 1963, that allows for the sale of beer and wine. Pursuant to Municipal Code Section 20.48.090 (Eating and Drinking Establishments), an increase in the floor area principally devoted to alcohol sales by twenty-five (25) percent or more, or by two hundred fifty (250) square feet or more, whichever is less, shall obtain new permits. Since a bar is proposed where a bar or floor area principally devoted to alcohol sales did not previously exist, an amendment to the existing use permit is required.
3. The subject property is legal, nonconforming due to having no parking available on-site. The building was constructed in 1947 and the Zoning Code has since changed to require off-street parking for food service uses within a range of one space for each thirty (30) to fifty (50) square feet of net public area based upon physical and operational characteristics of the use, and location of the establishment. Due to the restaurant's location on Marine Avenue, the restaurant benefits from high visitor

foot traffic in the area and close proximity to residents of Balboa Island, resulting in a lower demand for parking. Therefore, a parking rate of 1 space per 50 square feet is appropriate in this case. The net public area of the existing configuration is approximately 1,096 square feet, which would require 22 parking spaces. The proposed addition of the bar area reduces the net public area to approximately 1,018 square feet, which decreases the required parking to 21 spaces. Overall, the bar area remains a small component of the restaurant (23 percent) and is not anticipated to significantly change the operational characteristics of the restaurant or increase occupancy. Therefore, no additional parking is required.

4. As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments.

Finding:

C. 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 restaurant has operated on Marine Avenue, a commercial corridor of Balboa Island, for over 50 years as a complementary use to the community. The addition of the bar has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible to maintain an environment compatible for both residents and businesses.
2. Parking at the subject property is legal nonconforming as there is no parking available on-site. The addition of the bar with nine seats will not change the overall character of the restaurant and results in an overall reduction of net public area; therefore, no additional parking is required.
3. As conditioned, the restaurant will maintain a closing time of 11:00 p.m. and is not anticipated to create disturbances to the adjacent uses because there will be no outdoor dining, dancing, or live entertainment. A condition of approval has been included requiring the exterior windows and doors of the establishment to remain closed after 10:00 p.m., which will minimize sound emanating from the property.
4. The restaurant is oriented toward Marine Avenue in a manner that shields the restaurant activity from the residential uses at the rear.
5. The restaurant will operate as an eating and drinking establishment. The new seating configuration includes an approximately 232-square-foot bar area with a maximum of 9 seats in the dining entry room, which makes up approximately 23 percent of the restaurant's net public area. The bar area will provide a waiting area and alternative dining options for patrons, while three existing dining rooms will remain. A condition of approval has been included to ensure that the establishment

will not operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.

Finding:

D. 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. Adequate public and emergency vehicle access, public services, and utilities are provided on-site.
2. The design of the tenant improvements proposed will comply with all Building, Public Works, and Fire Codes, and will be approved by the Orange County Health Department.
3. The project site is located on Marine Avenue, which is located at the entrance of Balboa Island and has heavy vehicular traffic and pedestrian activity. The proposed addition of a bar area will not result in increased vehicular and pedestrian activity since the restaurant's total net public area is being reduced.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

1. The use authorized by this permit is not a bar, tavern, cocktail lounge, nightclub or an establishment where live entertainment, recreational entertainment or dancing is permitted. Prohibition of these uses or activities is likely to minimize potential land use conflicts, nuisances and police intervention.
2. The eating and drinking establishment will serve the surrounding community in a mixed-use district designed for such uses. The existing restaurant has operated in this location, including the sale of beer and wine, for over 50 years and has not proven to be a detriment to the community. The proposed bar area is a small component of the overall dining area of the restaurant and provides alternative dining options for patrons without negatively affecting the neighborhood.
3. The Police Department has reviewed the proposed project and has no objections related to the improvement. The operational conditions of approval recommended

by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with surrounding uses and minimize alcohol-related impacts.

4. All owners, managers, and employees selling or serving alcohol will be required to complete a Responsible Beverage Service Certification Program.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2016-033, 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 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 20, Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit No. 987 as approved by the Planning Commission on October 17, 1963, which upon vesting of the rights authorized by this use permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 25th DAY OF AUGUST, 2016.



Patrick J. Alford, 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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. 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 Use Permit.
4. This Use 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.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. 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.
8. 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 either the current business owner, property owner or the leasing agent.
9. No outside paging system and no amplified music shall be utilized in conjunction with this establishment.
10. 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.

11. All noise emanating from the property shall be controlled in such a manner as to not become excessive, unreasonable, or a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants.
12. All exterior doors and windows of the establishment shall remain closed after 10:00 p.m.
13. Patrons shall not enter or exit the restaurant through the alley entrance.
14. Employees of the restaurant shall not use the alley as a break area or smoking area.
15. Drop-off and pick-up of employees shall be prohibited in the alley.
16. 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. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00 AM and 10:00 PM		Between the hours of 10:00 PM and 7:00 AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

17. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way. Trash bins shall include a solid roof and shall remain closed.
18. Trash shall be disposed within 30 minutes after actual closing time, daily.
19. 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).
20. All trash shall be stored within a commercial trash bin with a solid lid to screen the trash and control odors. The lid shall be kept closed at all times. The commercial trash bin shall be located flush against the rear wall of the building and parallel to the alley to minimize its encroachment into the 10-foot alley setback.
21. The facility shall be maintained in a safe and sanitary condition at all times.

22. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
23. Storage outside of the building, in the front, or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
24. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or 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.
25. Hours of operation shall be limited to between 8:00 a.m. and 11:00 p.m., daily.
26. 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.
27. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
28. Dancing or live entertainment is not permitted on the premises.
29. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
30. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
31. 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.
32. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
33. Food service from the regular menu must be made available to patrons until 30 minutes prior to closing.

34. 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.
35. 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.
36. 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.
37. Strict adherence to maximum occupancy limit is required.
38. 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.
39. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code. Use Permit No. UP2016-033 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
40. 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 Royal Hen Minor Use Permit including, but not limited to, Minor Use Permit No. UP2016-033 (PA2016-128). 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.