



**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 May 2, 2014

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS
(Non-Hearing Items)**

Item 1: TK Burgers Staff Approval No. SA2014-008 (PA2014-060)
2108 W. Ocean Front, Unit 3/4

Action: Approved

Council District 1

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.

Det. Randy Parker, NBPD (*ABC License*)
Sgt. Chuck Freeman, NBPD (*Massage Therapy - ABC License*)



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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

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

www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR **ACTION LETTER**

Application No. Staff Approval No. SA2014-008 (PA2014-060)
Applicant TK Burgers
Site Address 2108 West Ocean Front, Unit 3/4
TK Burgers Substantial Conformance
Legal Description Tract 512, Block 21, Lots 1 and 2 and a Portion of Abandoned
Right-of-Way

On **May 2, 2014**, the Community Development Director approved Staff Approval No. SA2014-008 to allow the renovation of an existing food service, eating and drinking establishment and finding said renovation in substantial conformance with Use Permit No. UP1606. This approval is based on the following findings and subject to the following conditions.

PROJECT SUMMARY

A staff approval for a determination of substantial conformance with Use Permit No. UP1606 to allow the renovation of an existing food service, eating and drinking establishment (Perry's Pizza). The proposed renovation will eliminate an abutting tenant space that is approximately 260 square feet in area and occupied by a beauty salon to create new accessible restrooms. Overall, this expansion will increase the area of the outdoor dining area by 12 square feet and decrease the interior net public area of the establishment by 4 square feet. Therefore, the size of the combined indoor and outdoor seating areas will increase by a negligible amount of 8 square feet. The establishment will be limited to 788 square feet of interior net public area with 71 seats and 197 square feet of outdoor dining patio area with 21 seats. All operating characteristics will remain consistent with the previous use.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** MU-W2 (Mixed-Use Water Related)
- **General Plan:** MU-W2 (Mixed-Use Water Related)

BACKGROUND

On August 17, 1972, Use Permit No. UP1606 was approved by the Planning Commission to change a health food retail store to a take-out restaurant. No operational conditions of approval were placed on the project.

On September 15, 1997, Outdoor Dining Permit No. OD0037 was approved by the Planning Department to allow a small outdoor dining area to the rear of the building. Said outdoor dining patio area was limited to 176 square feet in size by Condition of Approval Number 2. Additionally, operation of the outdoor dining area was limited to the hours between 8:00 a.m. and 10:00 p.m., daily by Condition of Approval Number 4. Lastly, Condition of Approval Number 21 made the Outdoor Dining Permit non-transferable and further stipulates the approval does not extend to future owners and that a new application must be approved by the Planning Division.

The current floor plan is comprised of 788 square feet of net public area with a small 11-square-foot outdoor dining area in front of the building and a 157-square-foot outdoor dining patio area to the rear of the building. The front outdoor dining area contains 3 seats, the interior net public area contains 69 seats, and the rear outdoor patio dining area contains 8 seats for a total of 80 seats. The establishment has a Type 41 (On-Sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) License and does not have a limit placed on the hours of operation.

PROPOSED CHANGES

The applicant requests a staff approval for a determination of substantial conformance to allow the renovation of an existing food service, eating and drinking establishment (Perry’s Pizza). The proposed renovation will result in an 8-square-foot net increase of seating area. The exterior elevations of the establishment would be updated, including a substantial alteration of the front façade to create a 180-square-foot outdoor patio dining area. This “veranda” will consist of 20 seats and will serve as an updated entry point to the renovated establishment. The existing 157-square-foot outdoor patio dining area to the rear of the building will be removed as part of the renovation rendering Outdoor Dining Permit No. OD0037 null and void.

Table 1 – A comparative summary of the existing and proposed operations.

	Existing (Perry’s Pizza)	Proposed (TK Burgers)
<i>Interior Seats, NPA</i>	69 seats, 788 square feet	62 seats, 784 square feet
<i>Outdoor Seats, NPA</i>	11 seats, 168 square feet	20 seats, 180 square feet
<i>Total Seats, NPA</i>	80 seats, 956 square feet	82 seats, 964 square feet
<i>Parking Requirement</i>	22 spaces ¹	20 spaces
<i>On-Site Parking Provided</i>	None	No change
<i>Hours of Operation</i>	No restrictions	No change
<i>ABC License</i>	Type 41	No change

¹ Including the parking required for the Personal Services, General use in the abutting tenant space.

The renovated establishment will include 784 square feet of interior net public area and 180 square feet of outdoor dining patio area. Pursuant to Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required), an area equal to 25 percent of the interior net public area can be excluded from the parking requirement as "net public area" for the establishment. Given the proposed interior net public area of 784 square feet, a maximum outdoor patio dining area of 197 square feet may be excluded from the parking requirement. The proposed interior net public area is less than the existing interior net public area (788 square feet) and the proposed outdoor patio dining area (180 square feet) is less than 25 percent of the interior net public area; therefore, there is no increase in the amount of parking required. Furthermore, the applicant is expanding the food service, eating and drinking establishment into the abutting beauty salon tenant space which is approximately 260 square feet in area. A beauty salon is considered a Personal Services, General use by the Zoning Code and requires 1 parking space for each 250 square feet of gross floor area. Given the expansion and resulting removal of an existing use, the applicant is displacing the requirement for two additional parking spaces incurred by the beauty salon use.

Although there are no conditions of approval relative to its operation, the establishment will adhere to the existing operational characteristics. Additionally, the operator will be required to obtain an Operator License since the maximum occupancy as defined by the Uniform Building Code will increase as a result of the tenant improvement.

FINDINGS

Pursuant to Section 20.54.070, the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, and waive the requirement for a new use permit application. This staff approval is based on the following findings and facts in support of the findings. In this case, the Director determined the proposed changes:

Finding:

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

Facts in Support of Finding:

- A-1. Eating and drinking establishments are a permitted use in the MU-W2 (Mixed-Use Water Related) Zoning District, subject to approval of a use permit. The existing establishment received approval of Use Permit No. UP1606 and Outdoor Dining Permit No. OD0037 on August 17, 1972 and September 15, 1997, respectively. The proposed changes are consistent with the existing operational characteristics and floor plan approved by Use Permit No. UP1606.
- A-2. The proposed renovation and resulting decrease in interior net public area coupled with the removal of an existing Personal Services, General use will lower

the parking requirement for the building overall and will maintain an eating and drinking establishment use that is substantially conforming to the existing use.

Finding:

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

Facts in Support of Finding:

B-1. The previously approved project was determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, Existing Facilities, and were not subject to a negative declaration or Environment Impact Report.

B-2. The proposed project involves the renovation of the existing establishment and qualifies for a categorical exemption from CEQA under Class 2, Replacement or Reconstruction. The Class 2 exemption includes the replacement or reconstruction of a commercial structure with a new structure of substantially having the same size, purpose, and capacity.

Finding:

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

Facts in Support of Finding:

C-1. Use Permit No. UP1606 was not subject to specific operational conditions of approval.

C-2. The new location of the outdoor dining area on the beachside of the building and its design such that it is covered and enclosed on three sides will help to attenuate sound. Furthermore, as conditioned the operator is required to obtain an operator license which will help to ensure noise levels are controlled.

Finding:

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

Facts in Support of Finding:

D-1. The remodel of the establishment to improve the service areas and reconfigure the interior and exterior seating areas is minor in nature and does not represent a substantial change in the operational characteristics of the existing eating and drinking establishment.

D-2. The use of the space will remain an eating and drinking establishment, as reviewed and approved by Use Permit No. UP1606.

DETERMINATION

This staff approval has been reviewed and the determination has been made that the proposed changes to the existing eating and drinking establishment are in substantial conformance with the original approval actions.

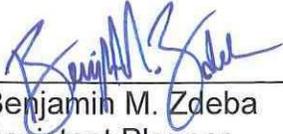
CONDITIONS OF APPROVAL

1. The development authorized by this staff approval shall be in substantial conformance with the approved project plans.
2. A building permit shall be obtained prior to commencement of the construction. A copy of this approval letter shall be incorporated into both the Building Division and field sets of plans prior to issuance of the building permits.
3. Prior to issuance of the building permits, the operator shall submit an application for an operator license. The Operator License shall be approved and issued prior to final inspection and issuance of the Certificate of Occupancy for the tenant improvement permits.
4. 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 TK Burgers Substantial Conformance including, but not limited to, the Staff Approval No. SA2014-008 (PA2014-060). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



Benjamin M. Zdeba
Assistant Planner

GR/bmz

- Attachments:
- CD 1 Vicinity Map
 - CD 2 Use Permit No. UP1606
 - CD 3 Outdoor Dining Permit No. OD0037
 - CD 4 Revised Project Floor Plan

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2014-008
PA2014-060

2108 West Ocean Front, Unit 3/4

Attachment No. CD 2

Use Permit No. UP1606

USE PERMIT APPLICATION
CITY OF NEWPORT BEACH

No. 1606

Fee \$150.00

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

Applicant CRAIG W. JONES Phone 675-0732

Mailing Address 103 McFadden Pl. #4 Newport

Property Owner Phil RAPP Phone 673-7340

Mailing Address 3910 River, Newport

Address of Property Involved 2108 3/4 W. Oceanfront

Purpose of Application (describe fully) to obtain a
use permit for an existing pass thru
window for "to-go" food. The plans
and construction has health department
approval.

Zone C-1 Present Use Mexican restaurant

Legal Description of Property Involved (if too long, attach sheet)
LOT ~~25~~ BLK 21, NEWPORT BCH TRACT

(MAP
D-7)

Craig W Jones Signature of Applicant or Agent Date 6/8/72

Craig W Jones Signature of Owner Date 6/8/72

XX
DO NOT COMPLETE APPLICATION BELOW THIS LINE

Date Filed 6-8-72 Fee Pd. 150⁰⁰ Receipt No. 52210

Hearing Date 7-6-72 Publication Date 6/32/72 + 7/30/72

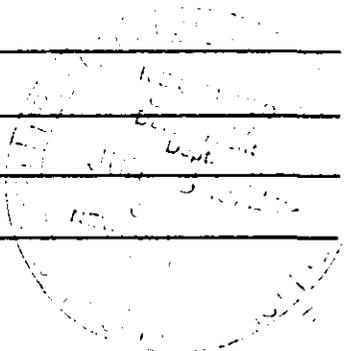
Posting Date _____ Mail Date _____

P. C. Action approved 8/17/72

Date _____ Appeal _____

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

_____ Date _____



COMMISSIONERS

CITY OF NEWPORT BEACH

MINUTES

August 17, 1972

ROLL CALL

INDEX

	AGEE	BECKLEY	GLASS	HAZEMINKEL	HEATHER	MARTIN	ROSENER
Present	X	X	X	X	X	X	X
Absent							X

EX-OFFICIO MEMBERS

R. V. Hogan, Community Development Director
 David R. Baade, Assistant City Attorney
 Benjamin B. Nolan, City Engineer

STAFF MEMBERS

James D. Hewicker, Asst. Community Development Director
 William R. Laycock Senior Planner
 Shirley Morgan

Motion					X		
Second	X						
Ayes	X		XX	X			
Abstain		X					X
Absent							X

Minutes of the meeting of July 20, 1972 were approved with the correction that Commissioner Glass was late and therefore did not participate in the approval of the July 6, 1972 minutes or in the actions taken on Items #1 and #2.

Item #1

Request to permit a "take-out" restaurant.

Location: Lot 1, Block 21, Newport Beach Tract, located at 2108 3/4 West Ocean Front on the northeasterly side of Ocean Front between McFadden Place and 20th Street, on Balboa Peninsula.

Zone: C-1

Applicant: Craig W. Jones, Newport Beach

Owner: Phil Rapp, Newport Beach

Public hearing was continued from August 3, 1972, pending a report from the City Attorney relative to parking requirements for the restaurant.

Assistant Community Development Director Hewicker read a letter dated July 5, 1972 from Dennis L. Thomas in rebuttal to approval of the requested use permit. He also reviewed the application and the City Attorney's report with the Planning Commission.

USE
PERMIT
 1606
APPROVED
CONDI-
TIONALLY

COMMISSIONERS

CITY OF NEWPORT BEACH

MINUTES

August 17, 1972

ROLL CALL

INDEX

ROSENER
MARTIN
HEATHER
HAZEWINKEL
GLASS
BECKLEY
AGEE

Motion
Second
Ayes
Abstain
Absent

There being none desiring to appear and be heard, the public hearing was declared closed.

Parking requirements and the parking ordinance was discussed by the Planning Commission.

Following discussion, Use Permit Application No. 1606 was approved subject to the following condition:

1. That three off-street parking spaces be provided for employees or that three commercial business parking permits be purchased for use in the Municipal Lot.

X
X
X
X
X

X

X

Item #1

Request to amend portions of Districting Map #11 from a C-1 District to an R-2 District.

AMEND-
MENT
332

Location:

A portion of Block 3, Newport Bay Tract, located on the north side of Balboa Boulevard between Coronado Street and Cypress Street on Balboa Peninsula.

CONT. TO
SEPT.

Initiated by: The City of Newport Beach

Public hearing was opened and Assistant Community Development Director Hewicker reviewed the request with the Planning Commission.

Walter Lewis, owner of three duplexes in the affected area appeared in opposition to the change of zone to R-2.

Mrs. Walter Lewis also appeared in opposition to the R-2 zoning.

Planning Commission discussed the effects other zoning would have on the property. Following the discussion, Planning Commission continued this matter to September 7, 1972, for the purpose of re-advertising Amendment No. 332 to change a portion of Districting Map No. 11 from a C-1 District to either an R-3 or an R-2 District.

Motion
Second
Ayes
Noes
Abstain
Absent

X

X

X

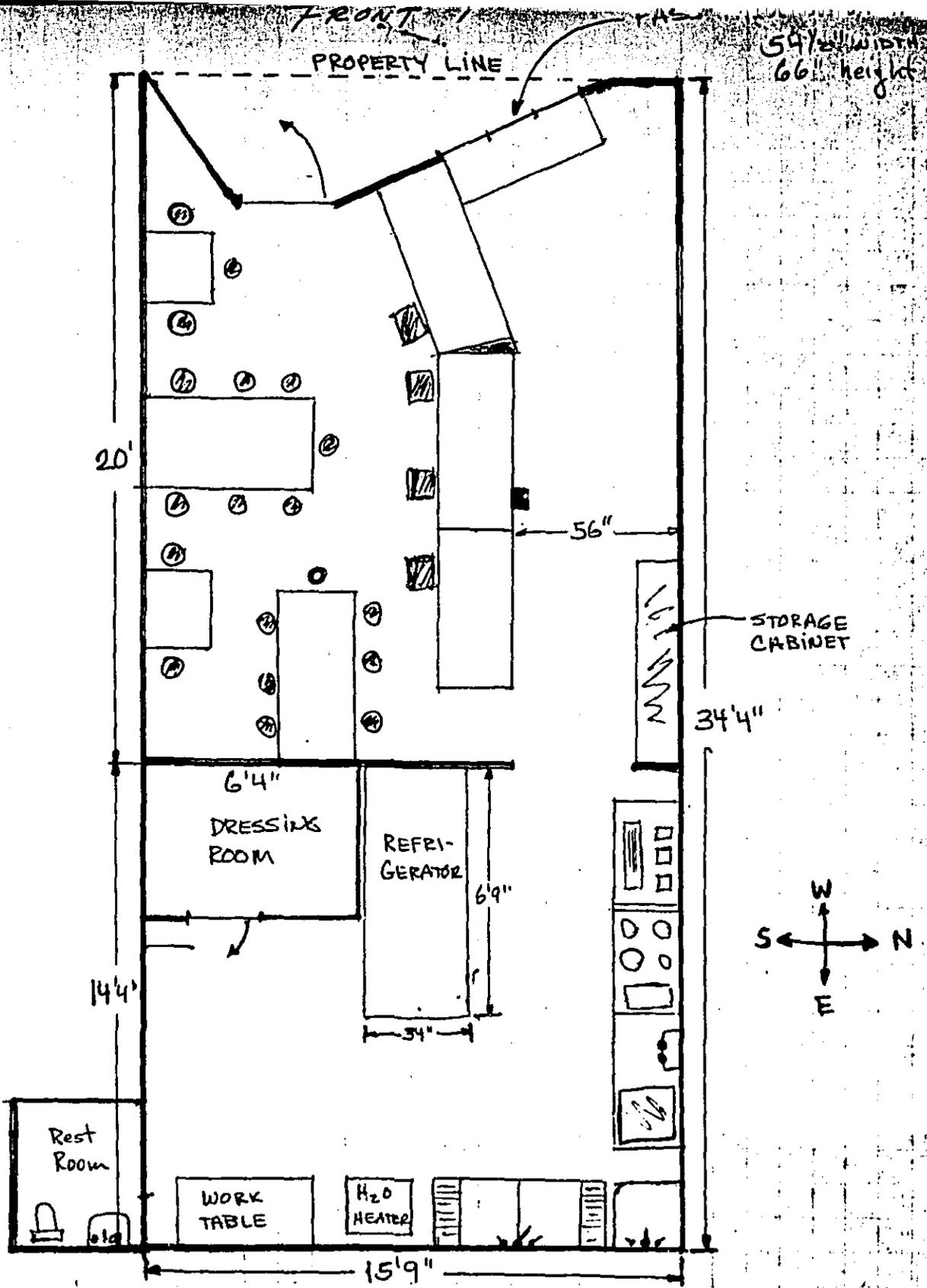
X

X

X

X

X



SCALE: 1/4" = 1'

TACO CONSPIRACY
 2108 3/4 W. Oceanfront
 OWNER: CRAIG W. JONES
 675-0732

Attachment No. CD 3

Outdoor Dining Permit No. OD0037

OUTDOOR DINING PERMIT
APPLICATION
CITY OF NEWPORT BEACH
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915
(714) 644-3200

No. 37
Application Rec'd by [Signature]
Fee: \$ 200⁰⁰

Applicant (Print) JESS BINGAMAN Phone (714) 673-1366
Address of Property Involved 2108 3/4 W. OCEANFRONT
Mailing Address SAME (760)
Property Owner EILEEN RAPP Phone (949) 767-5127
Mailing Address P.O. BOX 1266 BORREGO SPRINGS, CA
Purpose of Application (describe fully) PROPOSE ADDING (3) (5 FOOT DIA. PLASTIC TABLES, (12) PLASTIC CHAIRS AND (3) 9 FT MARKET UMBRELLAS
Present Use _____ Proposed Use _____ Zone _____

Proposed:

- a. Total Existing Net Public Area (square footage): _____ Indoor Public Areas: 1200
Outdoor Public Area: 270
- b. Net Public Area (square footage) of the proposed outdoor dining area: 270

Indicate Previous Modifications, Use Permits, Specialty Food Service Permits, etc. NONE

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

PIZZA RESTAURANT

OWNER'S AFFIDAVIT

(I) ~~(We)~~ Eileen L. Rapp depose and say that (I am) ~~(we are)~~ the owner(s) of the property(ies) involved in this application. (I) ~~(We)~~ further certify, under penalty of perjury, that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my) (our) knowledge and belief.

Signature(s) Eileen L. Rapp

NOTE: An agent may sign for the owner if written authorization from the record owner is filed with the application.

DO NOT COMPLETE APPLICATION BELOW THIS LINE

Date Filed 8/15/97 Fee Pd. \$ 200.⁰⁰ Receipt No. R273271
Hearing Date 9/15/97
Planning Director Action 9/19/97
Date _____ Appeal _____
P.C. Hearing _____ P.C. Action _____
Date _____ Appeal _____
C.C. Hearing _____ C.C. Action _____



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

Application:	Outdoor Dining Permit No. 37
Application Complete:	August 27, 1997
Date of Notice:	September 5, 1997
Date Approved:	September 19, 1997
Staff Person:	Javier S. Garcia, 644-3206
Appeal Period:	14 days (closes October 3, 1997)

Application No: Accessory Outdoor Dining Permit No. 37

Applicant: Perry's Pizza (Jess Bingaman, applicant)

Owner: Eileen Rapp, Borrego Springs

Address of Property Involved: 2108 3/4 West Ocean Front

Legal Description: Lots 1 and 2, Block 21, Newport Beach Tract

Establishment of an accessory outdoor dining use in conjunction with an adjacent take-out restaurant, on property located in the SP-6 (Cannery Village/McFadden Square Specific Plan Area) District.

The Planning Department on September 19, 1997, approved the application subject to the following conditions:

CONDITIONS:

1. That development shall be in substantial conformance with the approved site plan and floor plan, except as noted in the following conditions.
2. That the accessory outdoor dining shall be used in conjunction with the related adjacent food establishment and shall be reduced to a maximum of 176 sq.ft. (gross area, maximum 25% of the indoor net public area of 748 sq.ft.) as modified, unless an amendment to this application is obtained in accordance with the provision of the Municipal Code.
3. That the seating adjacent to the food use facility shall be limited to the area as delineated on the approved site plan only.
4. That the hours of operation of the outdoor dining area are limited to between 8:00 a.m. and 10:00 p.m., daily (the patio is to be closed and not utilized between 10:00 p.m. and 8:00

- a.m.). Any increase in the hours of operation shall be subject to the approval of an amendment to this application and may require approval of a use permit.
5. That alcoholic beverage service (for sale or consumption) shall be prohibited in the outdoor dining area unless an amendment to this permit is first approved by the Planning Director. That adequate signage shall be approved by the Police Department and conspicuously displayed in the interior of the facility prohibiting the consumption of alcohol outside of the building.
 6. That no outside paging or sound amplification system shall be utilized in conjunction with this outdoor dining area.
 7. That the proprietor shall actively control any noise generated by the patrons of the facility.
 8. That should problems arise with regard to noise associated with the outdoor dining areas, the Planning Department shall require the removal of all or a portion of the outdoor dining area seating in the areas which contribute to the noise problems or complaints.
 9. That trash receptacles for patrons shall be conveniently located outside of the related food service facility to serve the accessory outdoor dining area.
 10. That 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.
 11. That the area outside of the food establishment, including the public sidewalks, shall be maintained in a clean and orderly manner and the applicant may be required to provide periodic steam cleaning of the public sidewalks as required by the Public Works Department.
 12. That this approval shall not become effective until a valid Sidewalk Cafe License Encroachment Permit for the construction or placement of the outside dining in the public right-of-way, issued by the Public Works Department, is first approved and all conditions of approval and requirements have been satisfied (prior to implementation of Outdoor Dining Permit No. 37). Interpretation of conditions of approval of that encroachment permit shall be made by the Public Works Department and/or the City Council to determine compliance.
 13. That an as-built floor plan showing the final configuration of the outdoor dining area (seating plan) shall be submitted (the use of pavement marking to delineate the area shall be specifically defined and labeled) and approved by the Planning Department in conjunction with the building permit for the interior alterations of the tenant space.
 14. That for sunshade purposes, coverings shall be limited to the use of umbrellas with a minimum vertical clearance of 7 feet measured from the floor of the dining area to the

lowest portion of the shade structure. That the use of solid, permanent roof coverings or patio covers with vertical supports within the public right-of-way shall be prohibited. Awnings projecting from the building face shall be erected in accordance with the Sidewalk Cafe Development Standards of Council Policy L-21, unless otherwise approved by the Public Works Department and/or the City Council.

15. That no furniture, tables or chairs shall extend more than 10 feet from the face of the building into the public right-of-way.
16. That a minimum 10 foot clear pedestrian pathway shall be provided between any vertical obstructions (i.e., light standards, parking meters, walls, furniture or chairs), unless otherwise approved by the Public Works Department.
17. That all the outdoor dining tables, chairs and barriers shall be removed from the public right-of-way when the facility stops serving for the day or upon the closing of the facility, unless otherwise approved by the Public Works Department in conjunction with an Encroachment Agreement.
18. That no temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the food establishment, unless specifically permitted. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
19. That signs within the public right-of-way shall be subject to approval of the Public Works Department and may be subject to an amendment to the encroachment agreement.
20. That all City-approved plans and permits for the outdoor dining area shall be kept on the premises for inspection by authorized City staff (Police Department, Fire Department, Planning Department, etc.), at all times that the establishment is open for business.
21. That this approval of Accessory Outdoor Dining Permit No. 37 is non-transferable by the permittee or property owner; and should this business 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 owner or the leasing company, and that this approval does not extend to future owners and that a new application must be approved by the Planning Department.
22. That the Planning Department may add to or modify conditions of approval to this outdoor dining permit, or revoke this approval upon a finding of failure to comply with the conditions of approval, as set forth in Chapter 20.82 of the Municipal Code or other applicable conditions and regulations governing the food establishment set by this approval. The Planning Director may also recommend to the Planning Commission or City Council

the revocation of this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

23. That this approval shall expire unless exercised within 24 months from the end of the appeal period as specified in Section 20.91.050 of the Newport Beach Municipal Code.

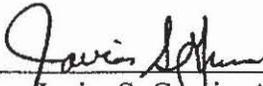
The Planning Department determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood and that the accessory outdoor dining permit as approved is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, and made the following findings:

FINDINGS

1. That the Land Use Element of the General Plan and the Local Coastal Program designate the property for "Retail and Service Commercial" land use; and the proposed outdoor dining is accessory to an existing restaurant, a permitted use within that designation.
2. That the approval of Outdoor Dining Permit No. 37 will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the city for the following reasons:
 - The use is accessory to and an extension of the existing restaurant use, subject to all the findings conditions of approval of Use Permit No. 3007, 1606 and its amendments, and not an independent use.
 - The proposed outdoor dining area is compatible with the surrounding land uses and its limited hours should prevent noise from adversely impacting the nearby uses since the proposal does not include any noise generating activities (i.e., entertainment).
 - The proposed accessory outdoor dining will not be located so as to result in a reduction of existing parking spaces.
 - The restrictions on the use of solid roof structures as applied to this approval are consistent with the intent and purpose of the accessory outdoor dining ordinance to maintain open character dining.

The decision of the Planning Department is final, however, the approval is subject to call up by the Planning Commission or the City Council for referral to the Planning Commission within 14 days of the date of the decision.

PATRICIA L. TEMPLE, Planning Director

By 

Javier S. Garcia, AICP
Senior Planner

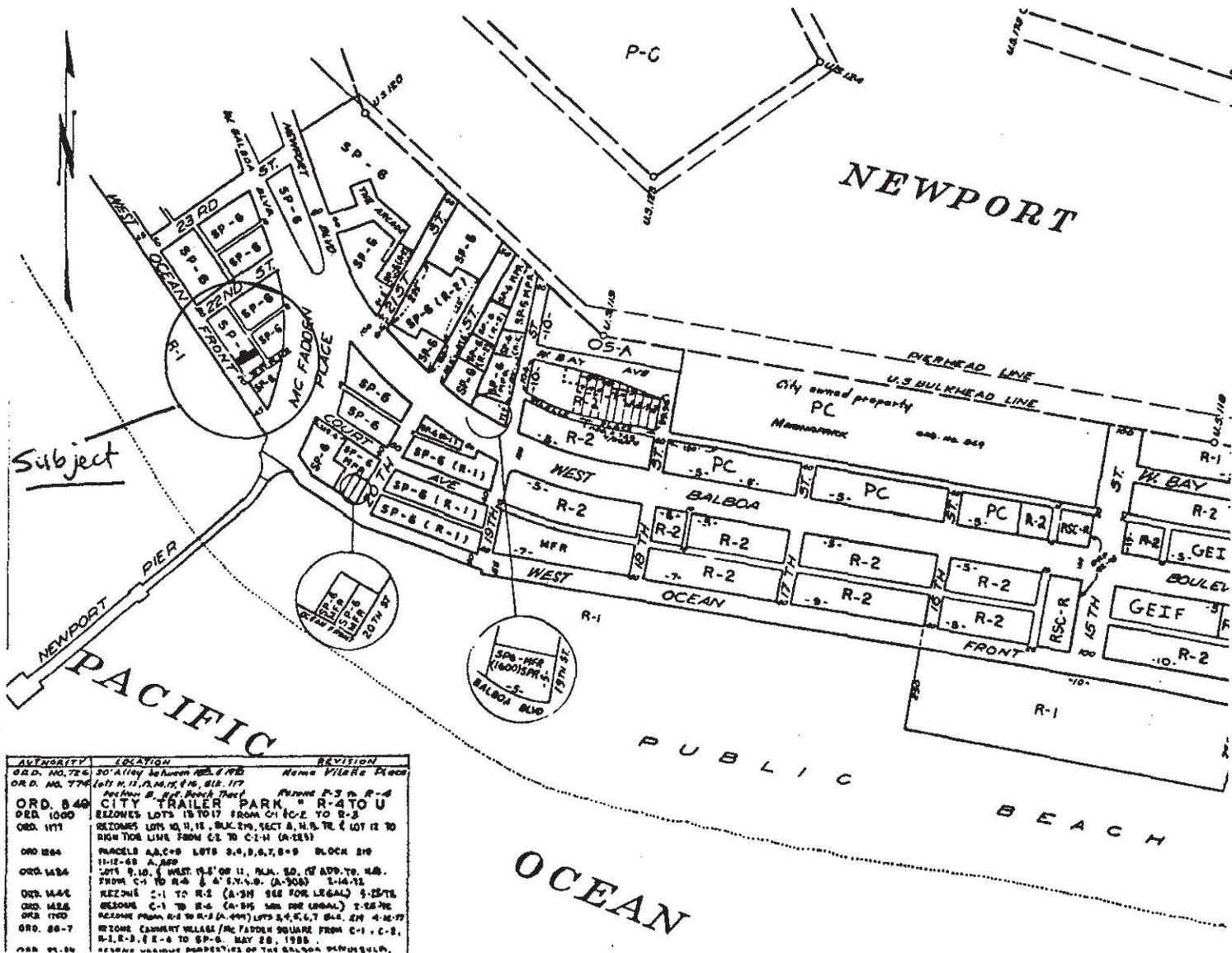
Attachments: Vicinity Map
Excerpt of Planning Commission
Minutes dated December 9, 1982
Detail Seating Plan
Site Plan and Floor Plan

cc:
Perry's Pizza
(Jess Bingaman, applicant)
2108 3/4 West Ocean Front
Newport Beach, CA 92663

property owner:
Eileen Rapp
P.O. Box 1266
Borrego Springs, CA

Code Enforcement Division

VICINITY MAP



AUTHORITY	EXPLANATION	REVISION
ORD. NO. 726	30' Alley between 23rd and 24th Sts.	Remove Villa Re Place
ORD. NO. 774	lots 11, 12, 13, 14, 15, 16, 17	Remove P-3 to R-4
ORD. 840	CITY TRAILER PARK	R-4 TO U
ORD. 1000	REZONE LOTS 18 TO 17 FROM C-1 TO R-2 TO R-3	
ORD. 1171	REZONE LOTS 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	
ORD. 1204	PARCELS A,B,C,D LOTS 3,4,5,6,7,8,9 BLOCK 210	
ORD. 1424	lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	
ORD. 1442	REZONE C-1 TO R-2 (A-311 SEE FOR LEGAL) 5-25-78	
ORD. 1422	REZONE C-1 TO R-2 (A-311 SEE FOR LEGAL) 5-25-78	
SPR. 1700	REZONE FROM R-2 TO R-3 (A-444) LOTS 3,4,5,6,7 BLDG. 214 4-12-77	
ORD. 20-7	REZONE CANNETT VILLAGE FIVE FAYDEN SQUARE FROM C-1, C-2, R-1, R-2, R-3 TO SP-6 MAY 28, 1988	
ORD. 21-20	REMOVE VACANT PROPERTIES OF THE BALBOA DEVELOPMENT	

Accessory Outdoor Dining Permit No. 37

Allen
Ballas
Coft
King
Krusader
McLaughlin
Michelson

City of Newport Beach

ROLL CALL

INDEX

Request to permit the use of electronic games of skill in conjunction with the existing Perry's Pizza restaurant located in the C-1 District.

LOCATION: Lots No. 1 and 2, Block 21, Newport Beach Tract, located at 2109 3/4 West Ocean Front, on the northerly side of West Ocean Front, between 22nd Street and McFadden Place in McFadden Square.

ZONE: C-1

APPLICANT: V. and R. Enterprises, Inc., Dba Perry's Pizza, Newport Beach

OWNER: Eileen Rapp, Borrego Springs

Planning Director Hewicker stated that when the restaurant was originally approved, the Planning Commission had waived all but three parking spaces. He stated that for several years the applicant has been paying for in-lieu parking spaces in the Municipal lot. Therefore, he stated that if the Planning Commission is desirous of waiving any parking spaces, it would involve the parking spaces which would be required for the video games.

Planning Director Hewicker stated that of the 40 businesses in the City which have video games, there have been only two businesses which have voluntarily applied for the use permit, one of which is this applicant.

The public hearing opened in connection with this item and Mr. Richard Montano, representing Perry's Pizza, appeared before the Commission and requested approval of this item. Mr. Montano stated that they have operated video games in the restaurant for approximately eight years and have never had a problem.

Item #11

USE PERMIT NO. 3007

APPROVED CONDITIONALLY

City of Newport Beach

ROLL CALL	Commissioner Lynn	Commissioner Walt	Commissioner John	Commissioner Dale	Commissioner Gail	Commissioner Ruth	Commissioner Ann	INDEX
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Motion
All Ayes

X X X X X X X

Motion was made for approval of Use Permit No. 3007, subject to the following findings and conditions, which MOTION CARRIED.

FINDINGS:

1. That the proposed use of video games in conjunction with the existing restaurant use is consistent with the Land Use Elements of the General Plan and the Adopted Local Coastal Plan and is compatible with the surrounding land uses.
2. The project will not have any significant environmental impact.
3. That the waiver of the development standards as they pertain to required offstreet parking spaces and the location of the subject structure within 100 feet of residences will have no greater adverse impact on adjacent properties or structures than strict compliance with said standards. The proposed operation of six video games as an incidental use to the restaurant will not increase the existing parking demand.
4. That the Police Department has no objections to the proposed operation.
5. The approval of Use Permit No. 3007 will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

CONDITIONS:

1. The development shall be in substantial conformance with the approved plot plan and floor plan.
2. That the number of machines be limited to a maximum of six machines. Any increase will require an amendment to this use permit.

Winters	King	Call	Beck	Allen
Winters	King	Call	Beck	Allen
Winters	King	Call	Beck	Allen
Winters	King	Call	Beck	Allen

City of Newport Beach

ROLL CALL	INDEX
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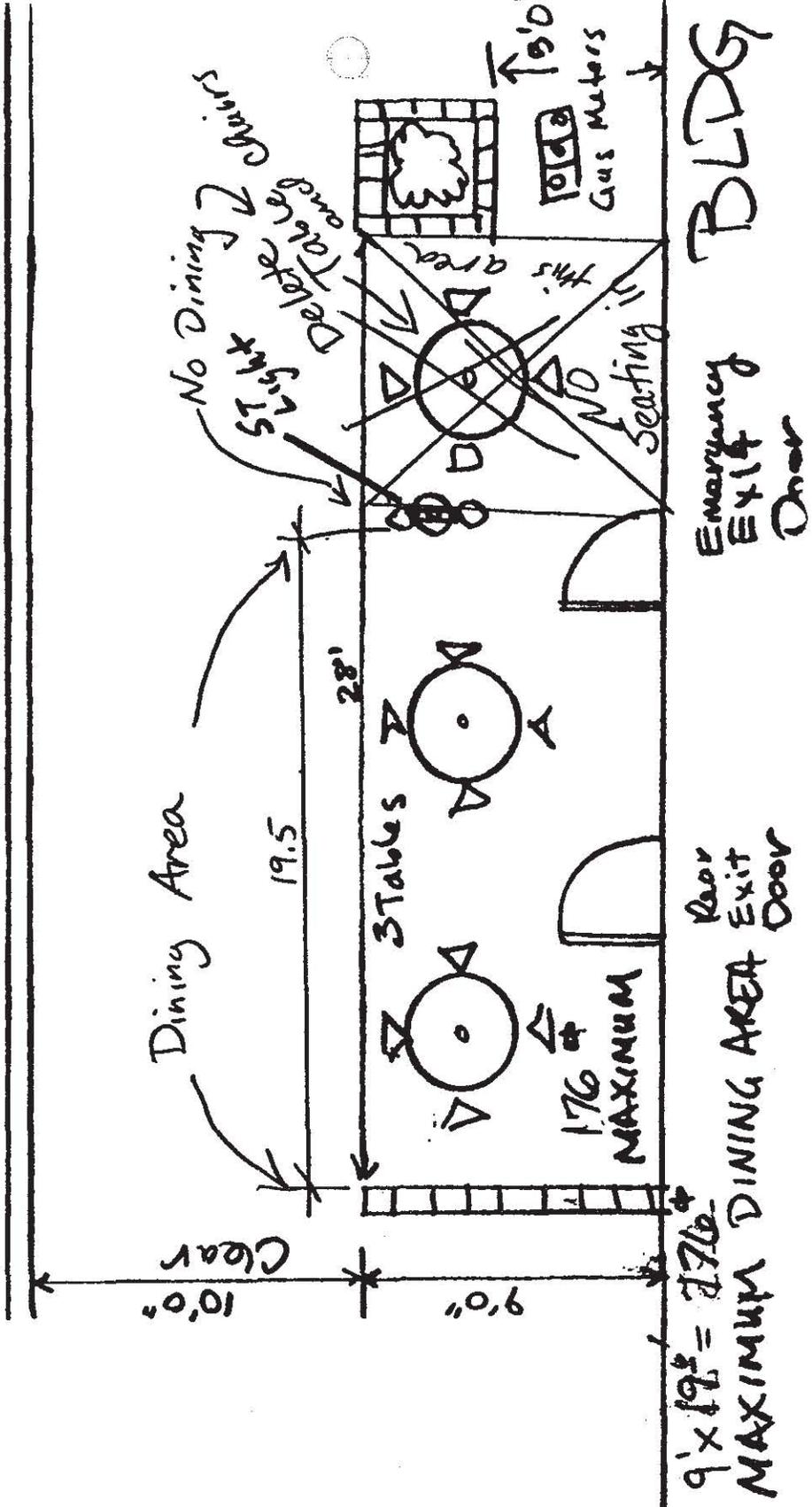
3. That this approval shall be for a period for two years, and any extensions shall be subject to the approval of the Modifications Committee.
4. That permits for the proposed skill games shall be issued by the License Division.
5. That noise from the skill games center shall be confined to the interior of the facility.
6. That no outside music shall be permitted.
7. All electronic video game machines within the restaurant shall be visible to, and supervised by, an adult attendant. The attendant shall be present at all times that electronic video game machines are available for use, to insure that there is no conduct on or off the premises that is detrimental to the public health, safety, or welfare.
8. No person under the age of 18 years shall be permitted to operate an electronic video game before 3:00 p.m. Monday through Friday, and after 10:00 p.m. daily, unless accompanied by a parent or guardian. This restriction shall not apply during school holidays and school vacation periods recognized by schools within the City of Newport Beach. It shall be the responsibility of the applicant and the adult attendant to ensure that these restrictions are enforced.
9. Adequate waste receptacles shall be located in the vicinity of the video game machines.
10. The applicant shall provide bicycle racks with a minimum capacity of 3 bicycles in a location on the subject property that is not on public property, and does not impede pedestrian traffic.
11. The applicant shall advise the Planning Director of any change in the circumstances pursuant to which the business is conducted, including but not limited to a change in ownership that might have a material impact on the nature and/or intensity of the use permitted.

Atkins
Bullis
Gold
King
Kirch
McLaughlin
Winters

City of Newport Beach

ROLL CALL			INDEX
		<p>12. That the development standards related to offstreet parking spaces and proximity to residential uses are waived.</p> <p>13. That the operation of the video games shall be limited to the same hours of operation for the restaurant.</p>	
<p>Motion All Ayes</p>	<p>X X X X X X X</p>	<p>Request to establish a commercial dry cleaning facility in an existing building located in the C-1 District.</p> <p>LOCATION: Portions of Parcels No. 1 and 3 and all of Parcel No. 2, Record of Survey 35-25, located at 3120 West Balboa Boulevard, on the easterly corner of 32nd Street and West Balboa Boulevard in Central Newport.</p> <p>ZONE: C-1</p> <p>APPLICANT: Larry Hoffman, Orange</p> <p>OWNER: William J. Cagney, Jr., Newport Beach</p> <p>The public hearing opened in connection with this item and Mr. Larry Hoffman, the applicant, appeared before the Commission and requested approval of this item.</p> <p>Mr. Don Atkinson, representing the owner, Mr. William Cagney, appeared before the Commission. Mr. Atkinson stated that they concur with the approval of this item.</p> <p>Motion was made for approval of Use Permit No. 3008, subject to the following findings and conditions, which MOTION CARRIED:</p> <p><u>FINDINGS:</u></p> <p>1. That the proposed use is consistent with the Land Use Element of the General Plan, and the Adopted Local Coastal Program Land Use Plan, and is compatible with surrounding land uses.</p>	<p>Item #17</p> <p>USE PERMIT NO. 3008</p> <p>APPROVED CONDI- TIONALLY</p>

**Accessory Outdoor
Dining Permit No. 37
DETAIL SEATING PLAN**



NOTES: ELEVATION OF BLDG IS 15'
 PROPOSED TABLES - 3EA. 40" DIA SPACED
 CLEARANCE 5" FROM EXIT DOORS
 APPROX. 6" SPACE BETWEEN TABLES

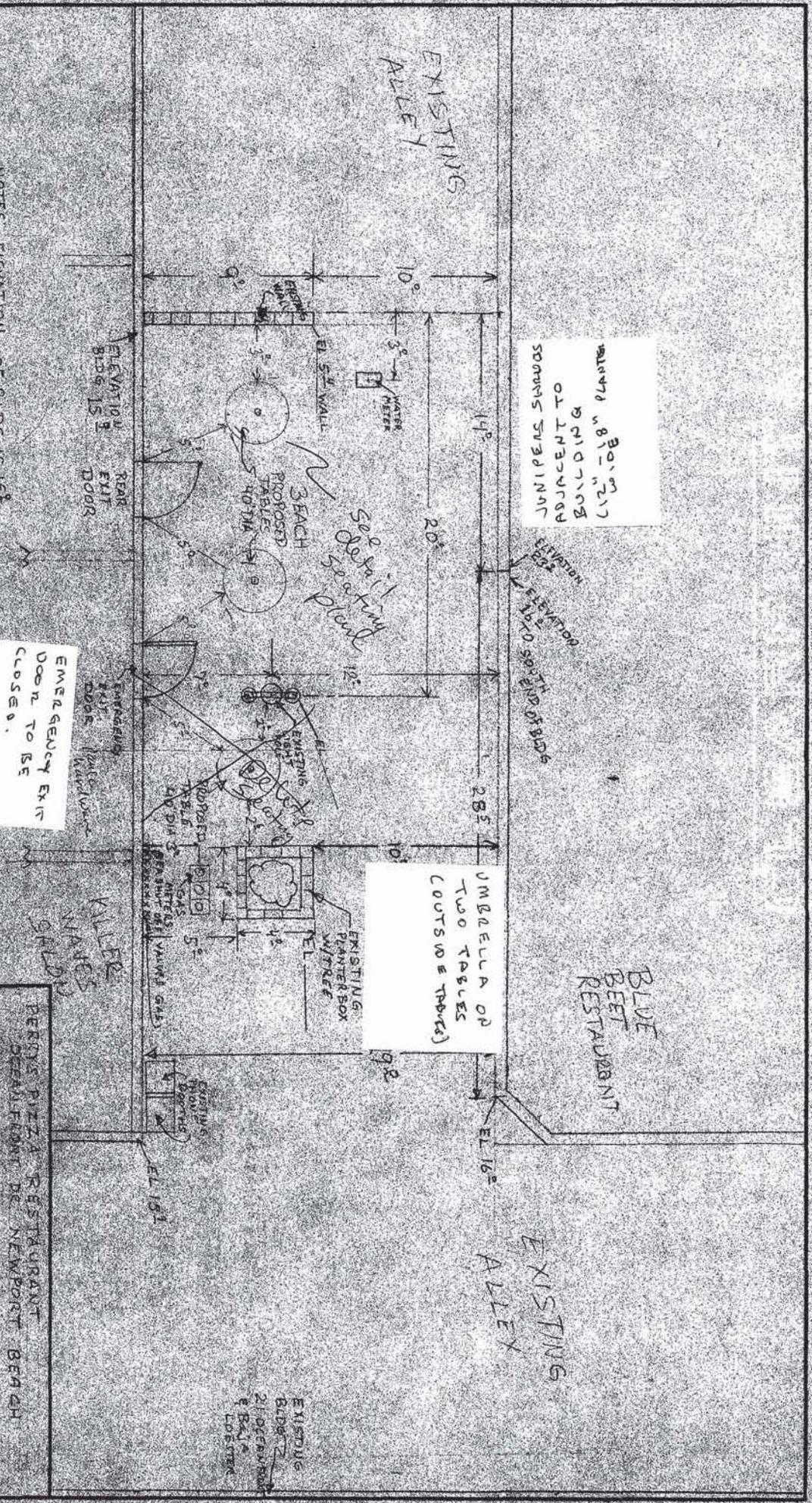
EMERGENCY EXIT
 DOOR TO BE
 CLOSED.

UMBRELLA ON
 TWO TABLES
 (OUTSIDE TRAYS)

TABLES 8'0" x 2'11"
 9'0" DIA
 ADJACENT
 TO MAIN ENTRANCE
 SOMER'S SWADINANT

BLVD
 BEET
 RESTAURANT

EXISTING
 ALLEY



PERRY'S PIZZA RESTAURANT DEPARTMENT DE NEWPORT BEACH	
SCALE: 1/8" = 1'-0" DATE: 8/14/17	APPROVED BY: [Signature] DRAWN BY: [Signature]
REAR DINING AREA TO BE USED AS PATIO DINING AREA	REVISED: [Signature]
DRAWING NUMBER: 80097-2	DATE: 8/14/17

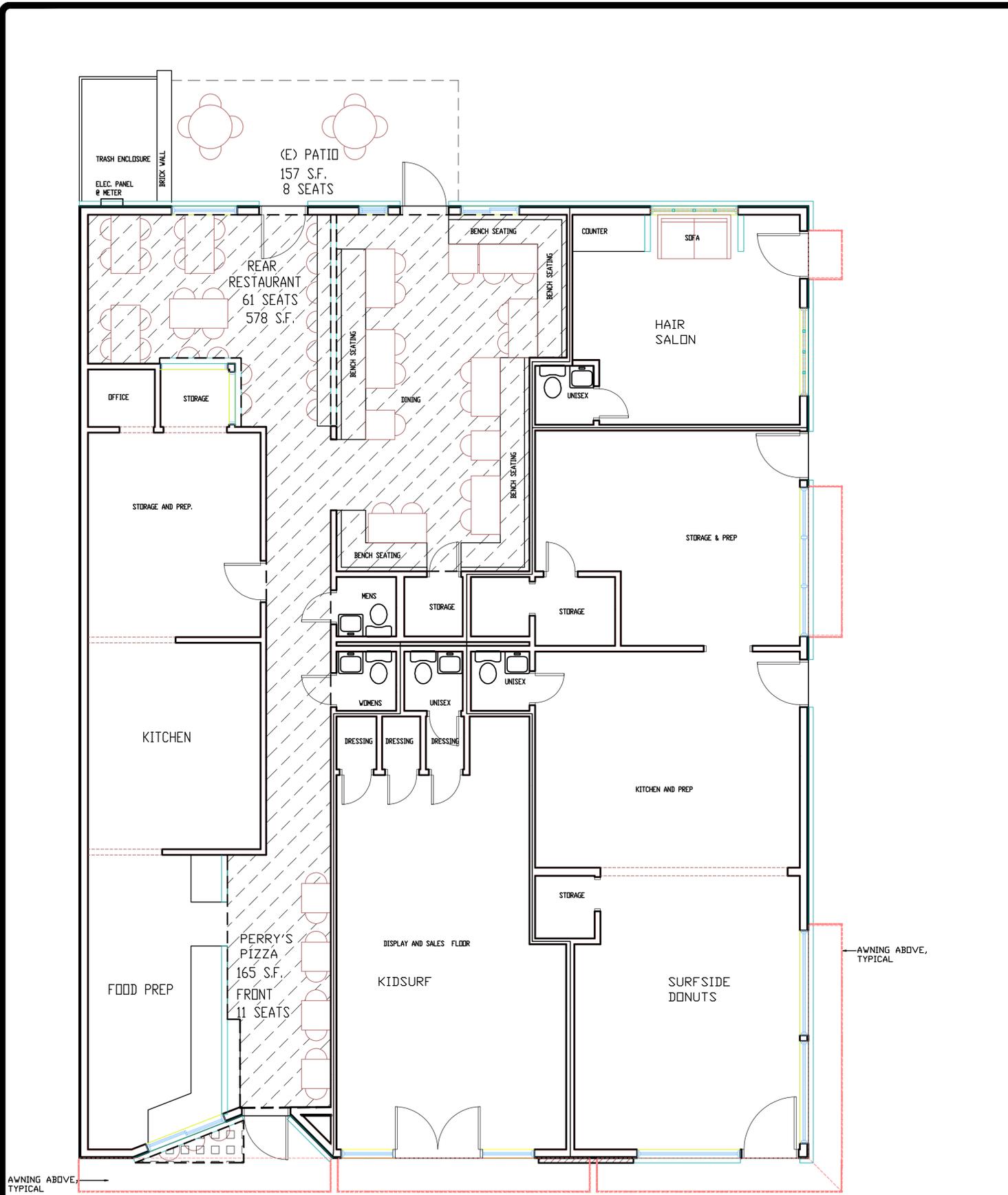
Attachment No. CD 4

Revised Project Floor Plan

RESTAURANT PLANNING SERVICES

 (714) 258-3901
 Fax (714) 258-7812
 email: rps1942@msn.com
 BOB PARR
 Ca. Lic. 692043
 1942 E. Edinger
 Santa Ana, CA 92705

TK BURGERS
 2108-3/4 W. OCEANFRONT
 NEWPORT BEACH, CA. 92663
 (FORMERLY PERRY'S PIZZA)



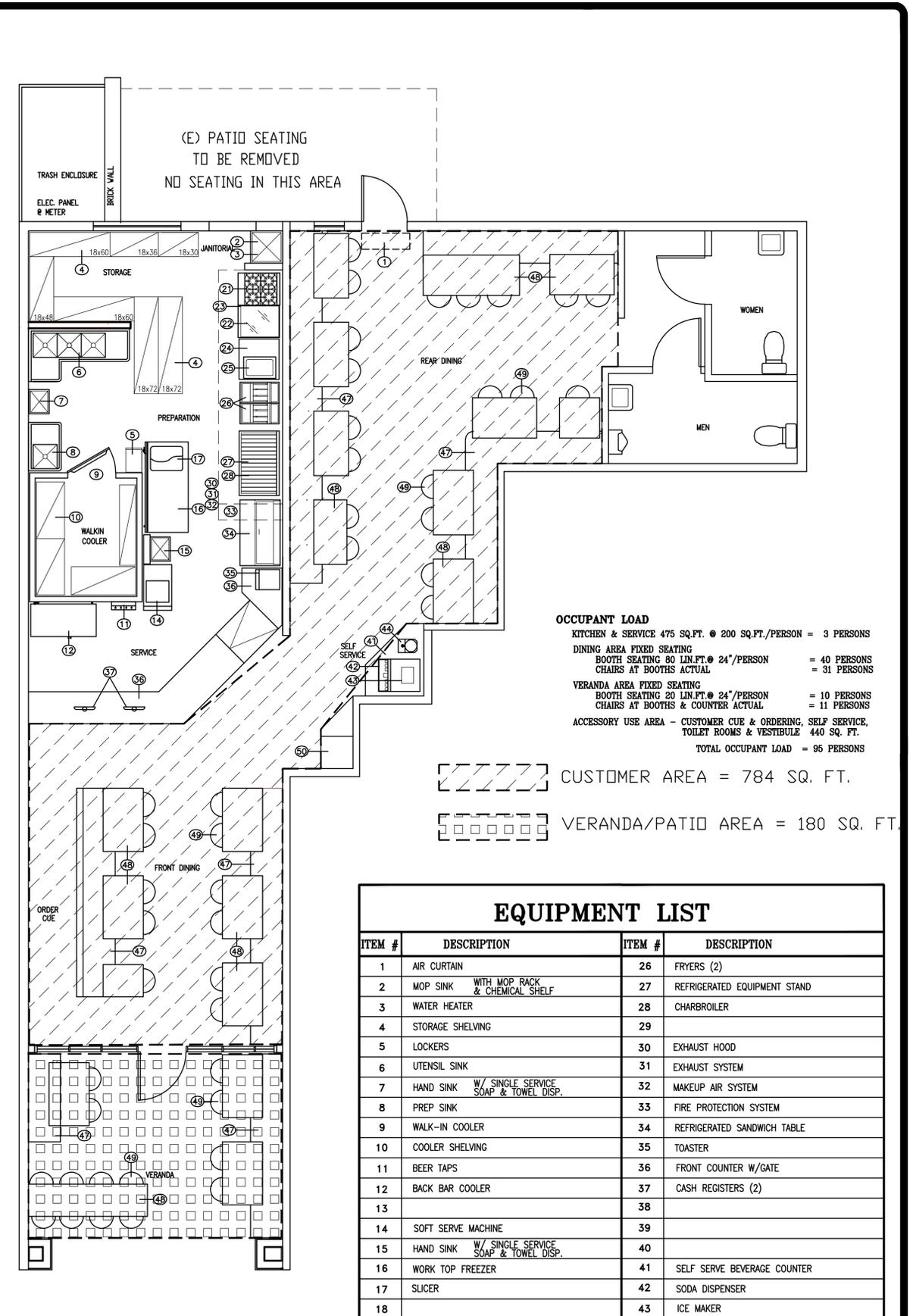
EXISTING FLOOR PLAN
 1/4"=1'-0"

OCCUPANT LOAD
 KITCHEN & SERVICE 576 SQ.FT. @ 200 SQ.FT./PERSON = 3 PERSONS
 DINING AREA FIXED SEATING
 BOOTH SEATING 65 LIN.FT. @ 24"/PERSON = 33 PERSONS
 CHAIRS AT BOOTHS ACTUAL = 18 PERSONS
 DINING AREA NON-FIXED SEATING 141 SQ.FT. @ 15 SQ.FT./PERSON = 10 PERSONS
 COUNTER SEATING @ 18" PER SEAT = 16 PERSONS
 TOTAL INTERIOR OCCUPANT LOAD = 80 PERSONS

EXISTING CUSTOMER AREA = 788 SQ. FT.
 EXISTING OUTSIDE FRONT COUNTER AREA = 11 SQ. FT.

AWNING ABOVE TYPICAL

NORTH



PROPOSED TK BURGER FLOOR PLAN
 1/4"=1'-0"

(E) PATIO SEATING TO BE REMOVED
 NO SEATING IN THIS AREA

OCCUPANT LOAD
 KITCHEN & SERVICE 475 SQ.FT. @ 200 SQ.FT./PERSON = 3 PERSONS
 DINING AREA FIXED SEATING
 BOOTH SEATING 80 LIN.FT. @ 24"/PERSON = 40 PERSONS
 CHAIRS AT BOOTHS ACTUAL = 31 PERSONS
 VERANDA AREA FIXED SEATING
 BOOTH SEATING 20 LIN.FT. @ 24"/PERSON = 10 PERSONS
 CHAIRS AT BOOTHS & COUNTER ACTUAL = 11 PERSONS
 ACCESSORY USE AREA - CUSTOMER CUE & ORDERING, SELF SERVICE, TOILET ROOMS & VESTIBULE 440 SQ. FT.
 TOTAL OCCUPANT LOAD = 95 PERSONS

CUSTOMER AREA = 784 SQ. FT.
 VERANDA/PATIO AREA = 180 SQ. FT.

EQUIPMENT LIST

ITEM #	DESCRIPTION	ITEM #	DESCRIPTION
1	AIR CURTAIN	26	FRYERS (2)
2	MOP SINK WITH MOP RACK & CHEMICAL SHELF	27	REFRIGERATED EQUIPMENT STAND
3	WATER HEATER	28	CHARBROILER
4	STORAGE SHELVING	29	
5	LOCKERS	30	EXHAUST HOOD
6	UTENSIL SINK	31	EXHAUST SYSTEM
7	HAND SINK W/ SINGLE SERVICE SOAP & TOWEL DISP.	32	MAKEUP AIR SYSTEM
8	PREP SINK	33	FIRE PROTECTION SYSTEM
9	WALK-IN COOLER	34	REFRIGERATED SANDWICH TABLE
10	COOLER SHELVING	35	TOASTER
11	BEER TAPS	36	FRONT COUNTER W/GATE
12	BACK BAR COOLER	37	CASH REGISTERS (2)
13		38	
14	SOFT SERVE MACHINE	39	
15	HAND SINK W/ SINGLE SERVICE SOAP & TOWEL DISP.	40	
16	WORK TOP FREEZER	41	SELF SERVE BEVERAGE COUNTER
17	SLICER	42	SODA DISPENSER
18		43	ICE MAKER
19		44	ICED TEA DISPENSER
20		45	
21	HOTPLATE	46	
22	GRIDDLE	47	SETTEE
23	REFRIGERATED EQUIPMENT STAND	48	TABLES
24	WORK TABLE	49	CHAIRS
25	FOOD WARMER	50	TRASH RECEPTACLE

DRAWN
 BOB PARR
 DATE
 4/7/14
 REVISION DATE
 4/28/14
 SHEET
PL-1