



**ITEM NO. 2** Johnny's Real New York Pizza Minor Use Permit No. UP2013-002 (PA2013-013)  
1320 Bison Avenue CD 4

Gregg Ramirez, Senior Planner, provided a brief project description. He explained that the proposed Minor Use Permit (MUP) is to allow beer and wine service at a restaurant allowed by an existing use permit located in the Bluff's Shopping Center. He also noted that tenant improvement permits have been issued pursuant to that existing use permit. He indicated that the tenant space has historically been occupied by restaurants and that the proposed MUP was consistent with the "blanket" restaurant Use Permit approved for the Bluff's Shopping Center. He explained that staff's recommended hours of operation were 6:00 a.m. to 11:00 p.m., daily, in order to allow the applicant and potential future operators flexibility. He further noted that the Police Department had no objections to the request and that staff was recommending approval of the MUP.

Zoning Administrator Wisneski asked the applicant if they had any comments about the project.

Applicant representative Michael Cho requested that Condition of Approval No. 14 regarding bar counter seating be deleted.

Zoning Administrator Wisneski opened the public hearing.

One member of the public, Jim Mosher, resident, questioned whether a condition prohibiting signage visible from the exterior of the restaurant advertising alcoholic beverages should be included or if it's covered in the sign code. Additionally, he questioned Condition No. 24 and its requirement for a Special Event Permit if beer and wine was being sold and indicated that it seemed to contradict with what the MUP would allow.

Seeing that no others from the public wished to comment the public hearing was closed.

Senior Planner Ramirez, explained the floor plan and layout of the seating counters, seats and restaurant equipment.

Ms. Wisneski and staff had a brief discussion about signage and Condition No. 24 as they relate to beer and wine advertising and Special Event Permit requirements.

Zoning Administrator Wisneski took action and approved the proposed project. Included in the approval was the deletion of Condition No. 14 because she determined that the service counter was small and not a bar counter designed primarily for the service of alcohol. Also, the reference to beer and wine in Condition No. 24 was deleted.

**Action:** Approved as amended

**ITEM NO. 3** Westcliff Court Tea Room Minor Use Permit No. UP2013-001 (PA2013-004)  
1703 Westcliff Drive CD 3

Benjamin M. Zdeba, Assistant Planner, provided a brief project description. He explained that the proposed Minor Use Permit is to allow a tea room (eating and drinking establishment) that is within 500 feet of a residential district. It was noted that the project site was developed over three parcels and a total of 165 parking spaces were shared between the buildings that occupied those parcels. He added that no late hours or alcohol sales were proposed as part of the request.

Zoning Administrator Wisneski asked the applicant if they had any comments about the project.

Applicant Deborah Standley stated she had nothing further to add to the staff's presentation.

Zoning Administrator Wisneski opened the public hearing.

Seeing that no one from the public wished to comment, the public hearing was closed.

Zoning Administrator Wisneski took action and approved the proposed project as submitted.

**Action:** Approved

**ITEM NO. 4** Orange Coast Winery Minor Use Permit No. UP2013-003 (PA2013-016)  
3734 East Coast Highway CD 6

Benjamin M. Zdeba, Assistant Planner, provided a brief project description. He explained that the proposed Minor Use Permit (MUP) is to allow Alcohol Sales (Off-Sale) for a retail store specializing in homegrown wines. He added that a small, 170-square-foot accessory onsite tasting area was included in the request, noted that the existing mixed-use development was nonconforming due to parking and use, and clarified that the use was not considered an intensification as the parking requirements were unchanged.

Zoning Administrator Wisneski asked the applicant if they had any comments about the project.

Applicant Doug Wiens stated he had nothing further to add to staff's presentation.

Zoning Administrator Wisneski opened the public hearing.

One member of the public, Jim Mosher, resident, expressed concern for staff's interpretation of Zoning Code Chapter 20.38 with respect to using parking requirements to gauge intensity for changing a use on a nonconforming property. Additionally, he questioned Condition No. 31 and its requirement for a Special Event Permit if beer and wine was being sold and indicated that it seemed to contradict what the MUP would allow.

Seeing that no one from the public wished to comment further the public hearing was closed.

Ms Wisneski and staff noted a change to Condition No. 31 as it relates to Special Event Permit requirements.

Zoning Administrator Wisneski took action and approved the proposed project. Included in the approval was the deletion of beer and wine referenced in Condition No. 31.

**Action:** Approved as amended

#### **D. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

None.

#### **ADJOURNMENT**

The hearing was adjourned at 3:54 p.m.

**The agenda for the Regular Hearing was posted on March 8, 2013, at 10:45 a.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building and on the City's website on March 8, 2013, at 10:50 a.m.**

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Brenda Wisneski, AICP, Zoning Administrator

## Comments on March 28, 2013 Zoning Administrator Agenda

Submitted by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

### **Item B. Minutes of March 14, 2013**

I noticed one extremely minor grammatical error on page 2, in the last line of the public hearing paragraph: "... it seemed to contradict **with** what the MUP would allow."

### **Item 1. 718 Poinsettia Avenue Parcel Map (PA2013-008)**

In the draft Resolution of Approval:

- Since Fact in Support of Finding F-1 establishes the land is not subject to the Williamson Act, any further facts (such as F-2) appear unnecessary. Similar reasoning suggests fact G-2 is also unnecessary, as is the latter part of fact K-1.
- Regarding Finding I, the reference to California Government Code section 65584 is to the Housing Element of the General Plan, including its affordability goals. It is not entirely clear that consistency with the present zoning, as recited in the supporting fact I-1, is sufficient to demonstrate that this change in use could not be in conflict with the Housing Element, particularly with regard to the affordability of the newly created units.
- The very similar agenda Item 3 includes a required Finding L ("*That public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.*"). I am unable to find that as a required finding in Section 19.12.070.A of the Newport Beach Municipal Code, so it is unclear to me why that finding is required to approve Agenda Item 3, but if it is needed there, should it be included in this resolution.
- Why does Condition 3 mention "*Each unit will require separate utilities for the fire sprinklers*"? Do the units not need separate utilities in general, not just for the sprinklers, per Conditions 16 & 17?
- Condition 13, requiring replacement of a street tree, may require review and approval by the Parks, Beaches and Recreation Commission under City Council Policy G-1, or other review authorities. It is not clear if this matter is entirely within the authority of the Zoning Administrator to order. Compare to Condition 17 in Agenda Item 3, where authorization by the Municipal Operations Director is implied.
- In Condition 19, do the units need to be separately identified?
- Is the reference to "duplex" in Condition 26 correct? Fact in Support of Finding A-1 identifies the existing property as a single family residence, not a duplex.
- In Condition 28, I don't believe Newport Beach currently has an employee officially called "Planning Director." Was this intended to read "Director of Community Development"?
- Regarding the Parcel Map, I am probably not understanding it, but if the solid lines represent the two condo units, they appear to have a substantially smaller footprint than the existing single family residence. I have trouble reconciling this with Fact in Support of Finding A-1, which reports that the square footage of development is increasing from 1,355 to 3,347, and also where the required parking will be provided.