



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

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

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[www.newportbeachca.gov](http://www.newportbeachca.gov)

### CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

October 10, 2013

Agenda Item No. 4:

**SUBJECT:** NBAC Café MUP - (PA2013-149)  
1367 Avocado Avenue  
▪ Minor Use Permit No. UP2013-015

**APPLICANT:** NBAC Café, LLC

**PLANNER:** Jason Van Patten, Planning Technician  
(949) 644-3234, [jvanpatten@newportbeachca.gov](mailto:jvanpatten@newportbeachca.gov)

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### ZONING DISTRICT/GENERAL PLAN

- **Zone:** OR (Office Regional Commercial)
- **General Plan:** CO-R (Regional Commercial Office)

### PROJECT SUMMARY

A minor use permit to allow a Type 41 (On-Sale Beer and Wine – Eating Place) Alcohol Beverage Control (ABC) License for an existing food service use (Newport Beach Athletic Club Café) located within the Newport Beach Athletic Club. No late hours (after 11:00 p.m.) are proposed as part of this application.

### RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. \_ approving Minor Use Permit No. UP2013-015 (Attachment No. ZA 1).

### DISCUSSION

- The existing Newport Beach Athletic Club Café with related outdoor dining patio is a food service use that was established in conjunction with the original development of the Newport Beach Athletic Club in 1971.



- The existing food service use is located on the second floor of the Athletic Club. Patrons primarily include members of the Athletic Club, but also include members of the public, including employees of nearby commercial buildings.
- The Athletic Club operates pursuant to Variance No. 982 which permitted the operation of the health club facility and related lounge (food service use), as well as a reduction in the required number of spaces from 69 to 52 spaces within the common area parking lot. Further, after 5:00 p.m. on weekdays, and all day on weekends, additional parking is available within the parking lot when the surrounding office development is closed.
- The applicant proposes the addition of on-sale beer and wine sales to complement the existing food service. Hours of operation are between 8:30 a.m. and 9:00 p.m., Monday through Thursday, 8:30 a.m. and 8:00 p.m., Friday, 8:30 a.m. to 6:00 p.m., Saturday, and closed on Sundays. These hours are consistent with the hours of the Athletic Club except that the health club is open on Sundays, and as early as 5:00 a.m. during the week.
- Pursuant to Municipal Code Section 20.48.090.F.2 (Eating and Drinking Establishments – Permit Requirements – Existing Establishments), a minor use permit is required when there is an application for a retail liquor license from the Department of Alcoholic Beverage Control with no late hours.
- No change in floor area or net public area is proposed as part of this application, and therefore, the addition of alcohol service to the existing food service does not necessitate additional parking.
- The existing food service has operated at the subject location since 1971 and the use has not proven detrimental to the area.
- The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community. Further, the existing hours of operation of the Athletic Club will minimize the potential effects on land use. The Athletic Club closes by 9:00 p.m., daily, which will ensure the food service does not become a late night bar, tavern, or nightclub.
- The subject property is located within Reporting District No. 39 (RD 39) and generally, crime statistics are higher in this district than adjacent districts due to a higher concentration of commercial uses within the North Newport Center. The Newport Beach Police Department is aware of this and does not object to the approval of the request. The alcohol related statistics for RD 39 are incorporated into the factors for consideration in the draft resolution (Attachment No. ZA 1).

Alcohol related statistics, and a memorandum, which includes the review by the Police Department, are provided for reference (Attachment Nos. ZA 4 and ZA 5).

**ENVIRONMENTAL REVIEW**

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the addition of beer and wine sales to an existing food service use. Therefore, the use qualifies for a categorical exemption under Class 1.

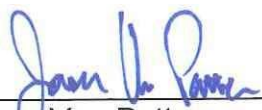
**PUBLIC NOTICE**

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 before the scheduled hearing, 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 14 days following the date of action. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

Prepared by:

  
\_\_\_\_\_  
Jason Van Patten  
Planning Technician

JM/jvp

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|--------------|------|---------------------------------------|
| Attachments: | ZA 1 | Draft Resolution                      |
|              | ZA 2 | Vicinity Map                          |
|              | ZA 3 | Police Department Reporting Districts |
|              | ZA 4 | Crime and Alcohol Related Statistics  |
|              | ZA 5 | Police Department Memorandum          |
|              | ZA 6 | Site Photographs                      |
|              | 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. UP2013-015 TO ADD ON-SALE BEER AND WINE TO AN EXISTING FOOD SERVICE USE LOCATED AT 1367 AVOCADO AVENUE (PA2013-149)**

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by NBAC Café, LLC, with respect to property located at 1367 Avocado Avenue and legally described as Parcel 5, as shown on a map filed in Book 25, Page 1 of Parcel Maps, in the Office of the County Recorder of Orange County, California requesting approval of a minor use permit.
2. The applicant proposes on-sale beer and wine sales in conjunction with an existing food service operation (Newport Beach Athletic Club Café). This request includes the establishment of a Type 41 (On Sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) license.
3. The subject property is located within the Office Regional Commercial (OR) Zoning District and the General Plan Land Use Element category is Regional Commercial Office (CO-R).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on October 10, 2013, 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. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the addition of beer and wine sales to an existing food service use. Therefore, the use qualifies 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 such findings 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 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.*
- i-1. The subject property is located in Reporting District 39 (RD 39). The Part One Crimes (Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson) crime rate in RD 39 is higher than in the adjacent reporting districts (RD 43, 44, and 47) and City overall. Although the crime rate is higher than the City average, the Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the alcoholic beverage license type proposed.
- ii. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
- ii-1. The total number of alcohol-related calls for service, crimes, or arrests in RD 39 is higher than in the adjacent reporting districts (RD 43, 44, 47) but less than the City overall. The Police Department has reviewed the proposal and has no objection.
- 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.*
- iii-1. The General Plan designates the site as Regional Commercial Office. Surrounding properties to the north, east, and west are currently developed with commercial buildings. The nearest recreational facility, Civic Center Park, is located approximately 100 feet to the east of the subject property. The property site is located approximately 1,200 feet from the Newport Beach Public Library and is not near a school, church, or similar use. The existing food service use has operated within the Newport Beach Athletic Club since 1971, and the proposed addition of an ABC license is not anticipated to alter the operational characteristics of the use such that it becomes detrimental to the area.



- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
- iv-1. Muldoon's Irish Pub and Restaurant located approximately 830 feet to the northwest is the only other establishment selling alcoholic beverages within proximity of the subject site. The restaurant operates with a Type 47 (On-Sale General – Eating Place) and Type 68 (Portable Bar) license. There is however no evidence suggesting this use has been detrimental to the neighborhood.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions.*
- v-1. The property has been used as a health club and a food service use.
- v-2. 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 food service use. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
- v-3. The existing hours of operation of the health club will minimize the potential effects on land use. The health club closes by 9:00 p.m., daily, which will ensure the food service use does not become a late night bar, tavern, or nightclub.
- v-4. The site is located within an area developed with commercial properties. It is anticipated that the food service use will serve members of the health club and patrons working nearby, as well as visitors to the Civic Center area. Adding alcohol service to the menu will complement the food service and provide a convenience to existing customers.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for are set forth:

Finding:

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

Facts in Support of Finding:

B-1. The General Plan designates the site as Regional Commercial Office (CO-R) which is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses.

B-2. The health club and food service use have provided a service to surrounding commercial buildings since 1971 and is therefore consistent with the CO-R land use designation.

B-3. The subject property is not part of a specific plan area.

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:

C-1. The site is located in the Office Regional Commercial (OR) Zoning District which is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and regional markets, with limited accessory financial, retail, service, and entertainment uses. The addition of on-sale beer and wine sales to the existing food service use is allowed subject to the approval of a minor use permit.

C-2. The Newport Beach Athletic Club operates pursuant to Variance No. 982 which permitted the operation of the health club facility and related lounge (food service use), as well as a reduction in the required number of spaces from 69 to 52 spaces within the common area parking lot. Further, after 5:00 p.m. on weekdays, and all day on weekends, additional parking is available within the parking lot when the surrounding office development is closed.

C-3. The principal use of the facility will remain a health club and the on-sale beer and wine sales will not intensify the existing food service use. Further, there will be no change in floor area or net public area necessitating additional parking.

C-4. The proposed conditions of approval ensure that potential conflicts with surrounding land uses are eliminated or minimized to the greatest extent possible.

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:

D-1. The health club and food service use have operated at the subject location since 1971 and the use has not proven detrimental to the area.

- D-2. The principal use of the facility will remain a health club and the on-sale beer and wine component as part of the food service use will not change the design, size, or operating characteristics of the facility.
- D-3. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community and that the food service use does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.

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:

- E-1. The health club and food service use have operated at this location since 1971 and the site has demonstrated that it is physically suitable in terms of design, location, shape, and size to support the use.
- E-2. Adequate public and emergency vehicle access, public services, and utilities are provided for on site.

Finding:

- F. 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:

- F-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.
- F-2. The food service use will continue to serve health club members, the surrounding commercial buildings, and provide dining services as a public convenience to the surrounding neighborhood. The service of alcohol will complement the principal use of the facility and provide an economic opportunity for the property owner to maintain a successful business in a way which best serves the community.

F-3. There are no residential uses adjacent to the subject property.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit UP2013-015, 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 after the adoption of this Resolution 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 10<sup>TH</sup> DAY OF OCTOBER, 2013.**

By:

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Brenda Wisneski, AICP, Zoning Administrator

DRAFT

**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. This Minor 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.
3. Any change in operational characteristics, proposal of late hours (after 11:00 p.m.), expansion in floor area, or other modification to the approved plans as they relate to beer and wine sales, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 7:00AM and 10:00PM |          | Between the hours of 10:00PM and 7:00AM |          |
|---|---|----------|---|----------|
|   | 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    |

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 business owner, property owner or the leasing agent.
7. Alcohol service shall be limited to a Type 41 (On Sale Beer and Wine – Eating Place) Alcoholic Beverage Control License.
8. This approval does not permit the food service use 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.

9. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
10. Food from the full service menu must be made available during any “happy hour” type of reduced price alcoholic beverage promotion. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.
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. 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.
13. 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.
14. There shall be no live entertainment allowed on the premises.
15. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
16. Food service from the regular menu must be available to patrons up to 30 minutes before the scheduled closing time.
17. Strict adherence to maximum occupancy limits is required.
18. 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 following the adoption of this resolution. 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.
19. 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 or contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

20. 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.
21. 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.
22. 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 debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
23. 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).
24. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
25. 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.
26. 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 NBAC Café MUP including, but not limited to, the UP2013-015 (PA2013-149). 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.





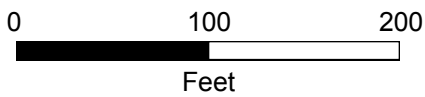
# **Attachment No. ZA 2**

Vicinity Map



Subject Property

Newport  
Beach  
GIS



Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2011 photos provided by Eagle Imaging [www.eagleaerial.com](http://www.eagleaerial.com)

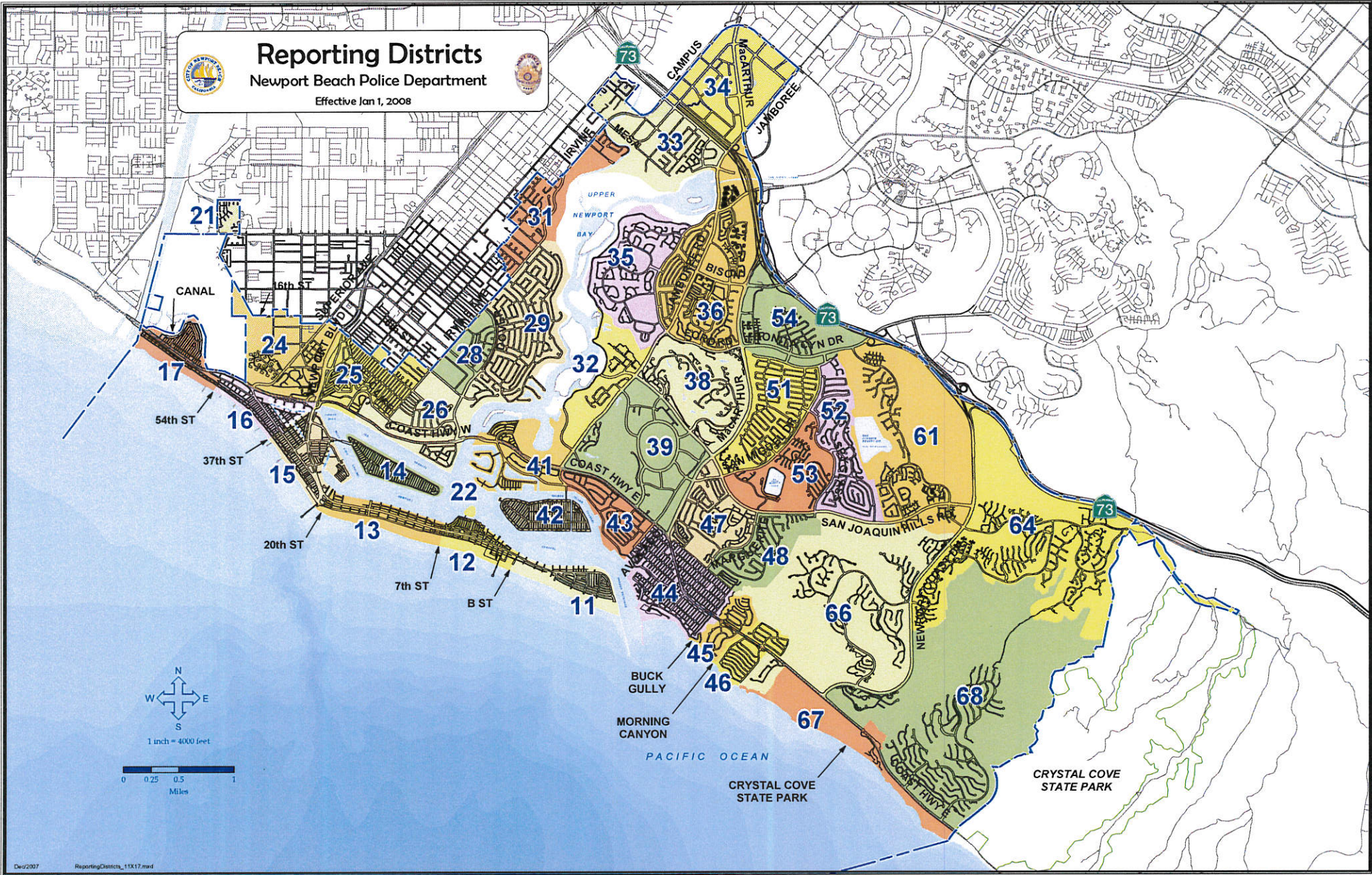
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# **Attachment No. ZA 3**

Police Department Reporting Districts



**Reporting Districts**  
 Newport Beach Police Department  
 Effective Jan 1, 2008



De022007 ReportingDistricts\_11X17.mxd



# **Attachment No. ZA 4**

Crime and 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 - 2013 YTD

| 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    |
| 1367 Avocado         | 1                    | 0             | 0                    | <i>not applicable</i> | 0           | 0         | 0                   | 0          | 0                    | 1                     | <i>not applicable</i> |
| Subject RD:<br>RD39  | 4,731                | 106           | 141                  | 4,992.93              | 103         | 16        | 14                  | 0          | 5                    | 39                    | 54                    |
| Adjacent RD:<br>RD43 | 531                  | 13            | 19                   | 676.38                | 23          | 4         | 2                   | 0          | 4                    | 5                     | 384                   |
| Adjacent RD:<br>RD44 | 4,237                | 94            | 128                  | 1,467.15              | 100         | 20        | 23                  | 0          | 71                   | 26                    | 246                   |
| Adjacent RD:<br>RD47 | 629                  | 12            | 20                   | 352.42                | 11          | 3         | 0                   | 0          | 1                    | 3                     | 1,135                 |
| Newport Beach        | 64,672               | 1,625         | 2,382                | 1,903.35              | 2,265       | 329       | 430                 | 7          | 709                  | 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 NBAC Café at 1367 Avocado (RD39)

YTD 2013, RD39 had a total of 247 reported crimes, compared to a city-wide reporting district average of 105 reported crimes. This reporting district is 142 crimes, or 135%, OVER the city-wide average.

The number of active ABC licenses in this RD is 39, which equals a per capita ratio of one license for every 54 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 OVER the 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 2013 YTD, through September 2.

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*

|   |
|---|
| <b>Highest Volume Crime in<br/>RD39</b> |
| Shoplift                                |

|   |
|---|
| <b>Highest Volume Crime in<br/>RD43</b> |
| Grand Theft                             |

|   |
|---|
| <b>Highest Volume Crime in<br/>RD44</b> |
| Vandalism                               |

|   |
|---|
| <b>Highest Volume Crime in<br/>RD47</b> |
| Burg/Theft from Auto                    |

|  |          |
|--|----------|
| <b>Calls for Service<br/>at 1367 Avocado</b> |          |
| MEDICAL AID                                  | 1        |
| <b>Grand Total</b>                           | <b>1</b> |

# **Attachment No. ZA 5**

Police Department Memorandum

**City of Newport Beach  
Police Department**

**Memorandum**

August 20, 2013

**TO:** Jason Van Patten, Planning Technician

**FROM:** Detective Randy Parker

**SUBJECT:** NBAC Café, 1367 Avocado Avenue, Use Permit No. UP2013-015

At your request, the police department has reviewed the project application for *NBAC Café*, located at 1367 Avocado Avenue, Newport Beach. The applicant requests a minor use permit to establish a Type 41 (On Sale Beer and Wine-Eating Place) Alcoholic Beverage Control License (ABC) for the Newport Beach Athletic Club (NBAC). Beer and wine would be available for sale and consumption within the 640-square foot café and related outdoor patio located on the second floor of the NBAC. Service would be primarily to members of the club, however, the café is open and accessible to the public. The Club's regular hours are 5:00 AM to 9:00 PM Monday through Thursday, 5:00 AM to 8:00 PM, Friday, 6:00 AM to 6:00 PM, Saturday, and 8:00 AM to 2:00 PM, Sunday. The Café's hours are 8:30 AM to 9:00 PM Monday through Thursday, 8:30 AM to 8:00 PM, Friday, 8:30 AM to 3:30 PM, Saturday, and closed on Sunday. Service of alcohol is proposed to begin at noon daily.

**Applicant History**

John Bazacas moved to Newport Beach in 1961 and opened the Newport Beach Athletic Club in 1971. Forty years later the NBAC is still family owned and operated by the Bazacas and the Burnham families. NBAC Café's award winning Chef Renzo Macchiavello and the NBAC staff take pride in assisting guests with the planning of their lunch events.

**Police Activities and Calls for Service Data**

There was no notable police related activity at this location in the past year.

**Recommendations**

The Police Department has no objections to this operation as proposed by the applicant.

**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 are from 8:30 AM to 9:00 PM Monday through Thursday, 8:30 AM to 8:00 PM, Friday, 8:30 AM to 3:30 PM, Saturday, and closed on Sunday. Service of alcohol is proposed to begin at noon daily.

### **Security**

The police department has no recommendations.

### **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 the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the planning commission first approves a use permit.
2. No alcoholic beverages shall be consumed on any property adjacent the licensed premises under the control of the licensee.
3. Applicant shall post and maintain a professional quality sign (clearly visible on outdoor patio gate/barrier) which designates the specific area where patrons may consume alcoholic beverages. Posted sign shall read:

“NO ALCOHOLIC BEVERAGES MAY BE TAKEN BEYOND THIS POINT.”

4. Food from the full service menu must be made available during any "happy hour" type of reduced price alcoholic beverage promotion. There shall be no reduced price alcoholic beverage promotion after 9 p.m.
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. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the police department on demand.
7. 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.
8. There shall be no live entertainment allowed on the premises.
9. There shall be no dancing allowed on the premises.
10. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
11. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
12. Strict adherence to maximum occupancy limits is required.

**Alcoholic Beverage Control License**

Upon approval of the CUP, the ABC license will be conditioned as necessary to maintain the health, safety and welfare of the community.

If you have any questions, please contact me at (949) 644-3706



Detective Randy Parker  
ABC Liaison/Vice/Intelligence



Dale Johnson, Captain  
Detective Division Commander

# **Attachment No. ZA 6**

Site Photographs



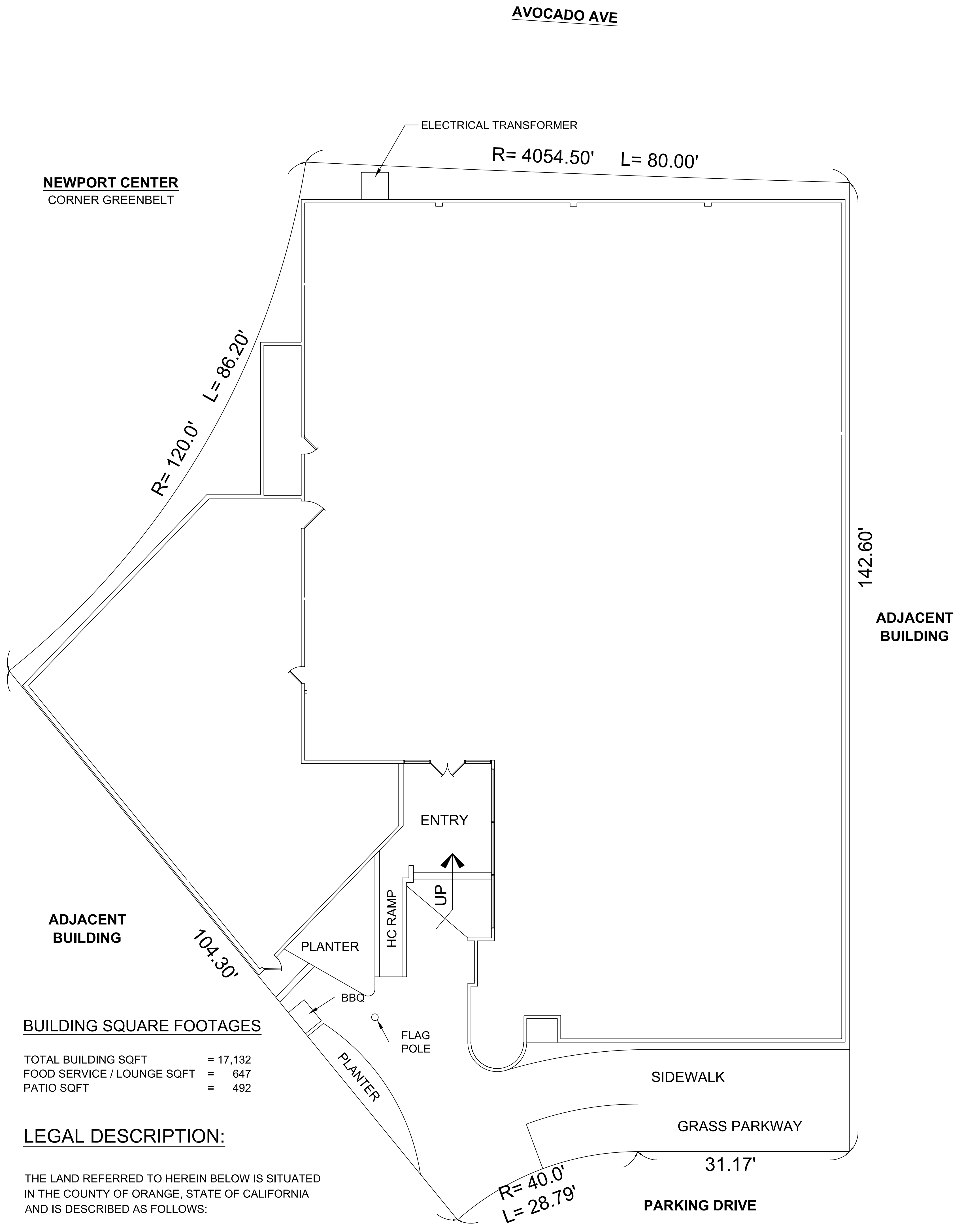


# **Attachment No. ZA 7**

Project Plans



The information disclosed herein was originated by and is the property of Controlled Environments Construction, Inc. and except for rights expressly granted to the customer, Controlled Environments Construction, Inc. reserves all patent, proprietary, design, use, sale, manufacturing and reproduction rights thereto.



**BUILDING SQUARE FOOTAGES**

|                            |          |
|----------------------------|----------|
| TOTAL BUILDING SQFT        | = 17,132 |
| FOOD SERVICE / LOUNGE SQFT | = 647    |
| PATIO SQFT                 | = 492    |

**LEGAL DESCRIPTION:**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

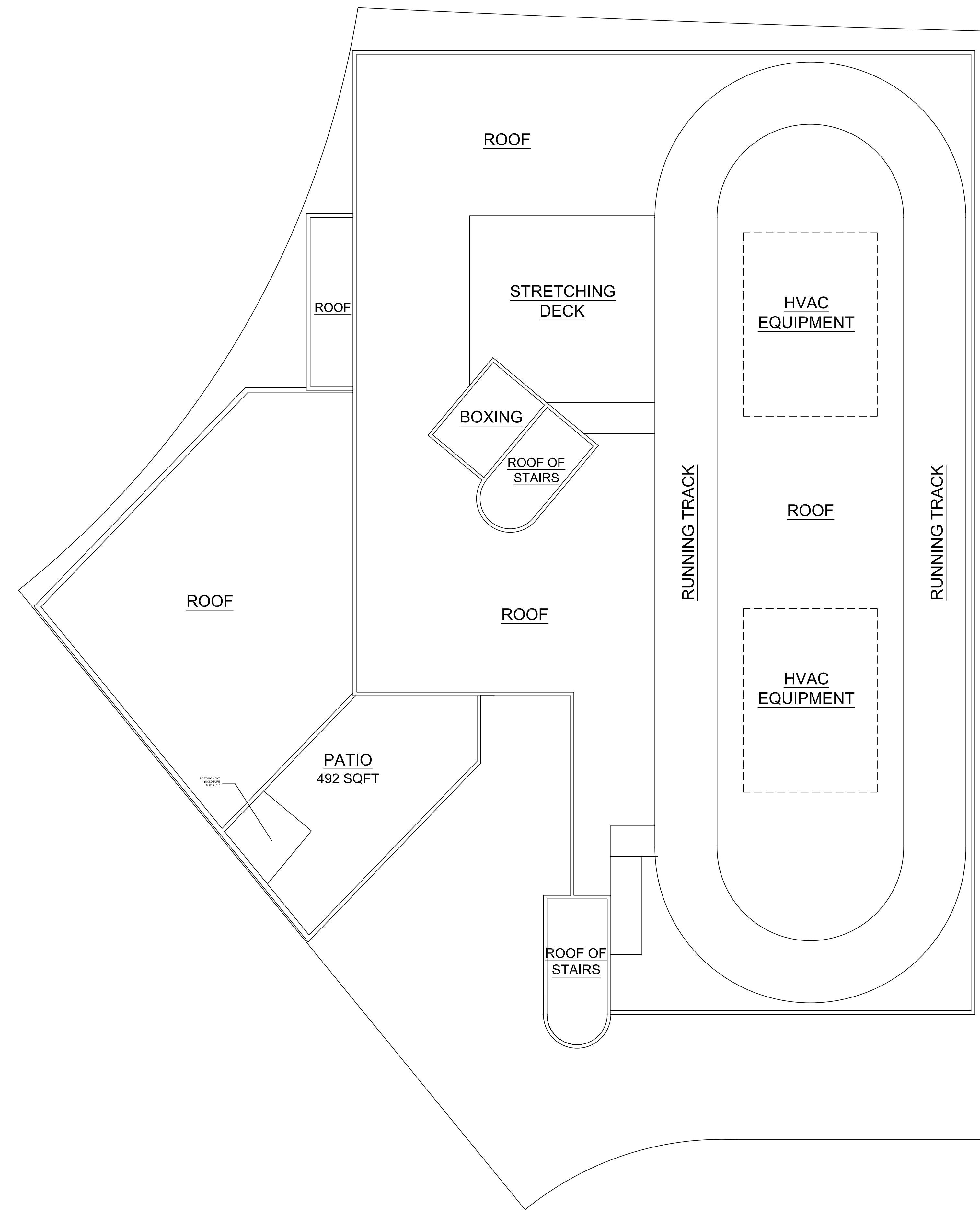
PARCEL A:

PARCEL 5, AS SHOWN ON THE MAP FILED IN BOOK 25, PAGE 1 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY,

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS AND PARKING PURPOSED, OVER PORTION OF PARCEL C, AS SHOWN ON A MAP FILED IN BOOK 25, PAGE 1 OF PARCEL MAPS AND OVER PORTIONS OF PARCEL 2, AS SHOWN ON A MAP FILED IN BOOK 60, PAGE 36 OF PARCEL MAP, RECORDS OF ORANGE COUNTY

**SITE PLAN**



**ROOF PLAN**

**MINOR USE PERMIT NO. UP2013-015  
(PA2013-149)  
1367 AVOCADO AVE**

| REV | DATE      | DESCRIPTION                     |
|-----|-----------|---------------------------------|
| 1   | 9/10/2013 | COMMUNITY DEV. DEPT CORRECTIONS |
| 2   |           |                                 |
| 3   |           |                                 |
| 4   |           |                                 |
| 5   |           |                                 |
| 6   |           |                                 |
| 7   |           |                                 |

PLANS FOR:  
**NEWPORT BEACH ATHLETIC CLUB**  
1367 AVOCADO AVE  
NEWPORT BEACH, CA 92660

DRAWING TITLE:  
**SITE AND ROOF PLANS**

1582 Parkway Loop - Suite E  
Tustin, CA 92680  
Phone: (714) 566-9090  
Fax: (714) 566-8981

**CONTROLLED ENVIRONMENTS CONSTRUCTION, INC.**

DRAWN BY:  
**RBB**

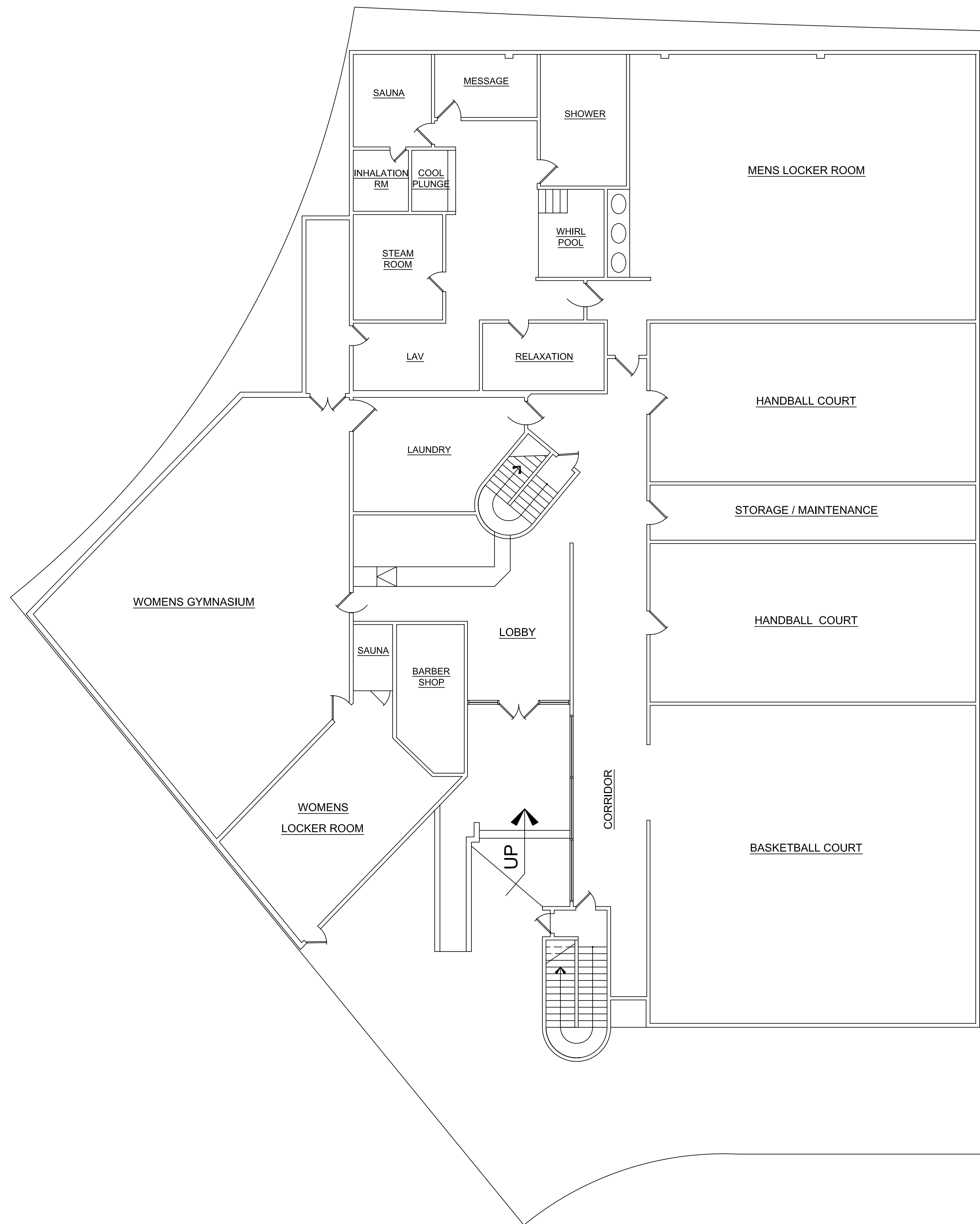
DATE:  
**9/10/2013**

SCALE:  
**1/8" = 1'-0"**

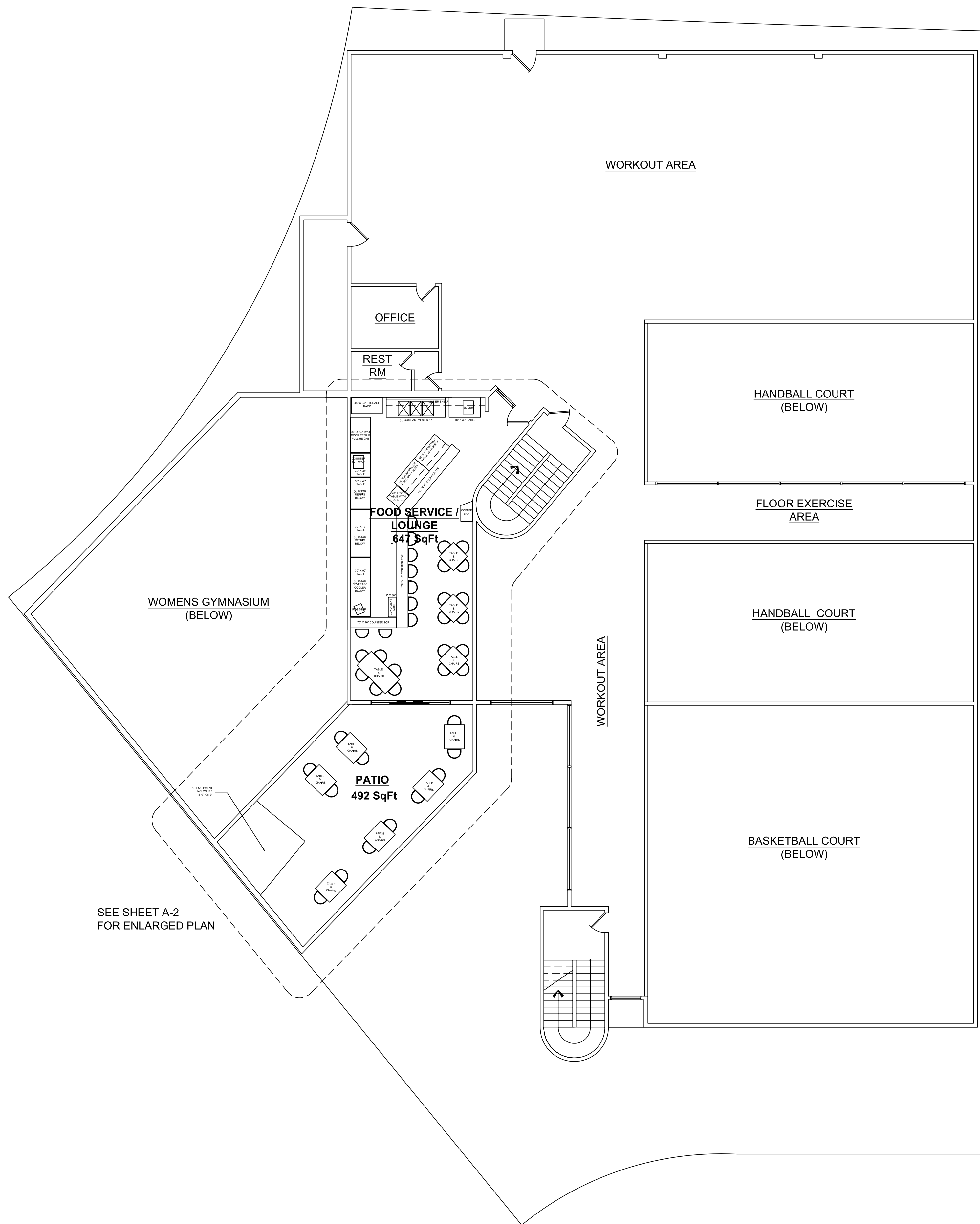
JOB NUMBER:

DRAWING NUMBER:  
**C-1**

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**FIRST FLOOR**



**SECOND FLOOR**

| REV | DATE      | DESCRIPTION                     |
|-----|-----------|---------------------------------|
| 1   | 8/9/2013  | ADDED SQUARE FOOTAGES           |
| 2   | 9/10/2013 | COMMUNITY DEV. DEPT CORRECTIONS |
| 3   |           |                                 |
| 4   |           |                                 |
| 5   |           |                                 |
| 6   |           |                                 |
| 7   |           |                                 |

PLANS FOR:  
**NEWPORT BEACH ATHLETIC CLUB**  
 1367 AVOCADO AVE  
 NEWPORT BEACH, CA 92660

DRAWING TITLE:  
**FIRST AND SECOND FLOOR PLANS**

1582 Parkway Loop - Suite E  
 Tustin, CA 92780  
 Phone: (714) 566-9090  
 Fax: (714) 566-8991

CONTROLLED ENVIRONMENTS CONSTRUCTION, INC.

DRAWN BY:  
**RBB**  
 DATE:  
**6/26/2013**  
 SCALE:  
**1/8" = 1'-0"**  
 JOB NUMBER:

DRAWING NUMBER:  
**A-1**

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| REV | DATE | DESCRIPTION |
|-----|------|-------------|
| 1   |      |             |
| 2   |      |             |
| 3   |      |             |
| 4   |      |             |
| 5   |      |             |
| 6   |      |             |
| 7   |      |             |

PLANS FOR:  
**NEWPORT BEACH ATHLETIC CLUB**  
 1367 AVOCADO AVE  
 NEWPORT BEACH, CA 92660

DRAWING TITLE:  
**ENLARGED FOOD SERVICE / LOUNGE PLAN**

1582 Parkway Loop - Suite E  
 Tustin, CA 92680  
 Phone: (714) 566-9090  
 Fax: (714) 566-8991

**CONTROLLED ENVIRONMENTS CONSTRUCTION, INC.**

DRAWN BY:  
**RBB**

DATE:  
**6/26/2013**

SCALE:  
**1/8" = 1'-0"**

JOB NUMBER:

DRAWING NUMBER:  
**A-2**

