

RESOLUTION NO. _____

A RESOLUTION OF HEARING OFFICER THOMAS W. ALLEN, DESIGNATED BY THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH TO CONDUCT HEARINGS PURSUANT TO CHAPTER 20.91A OF THE NEWPORT BEACH MUNICIPAL CODE, APPROVING USE PERMIT NO. 2008-031 FOR A RESIDENTIAL CARE FACILITY LOCATED AT 1601 WEST BALBOA BOULEVARD (PA2008-102)

WHEREAS, an application was filed by Ocean Recovery, LLC with respect to property located at 1601 West Balboa Boulevard, and legally described as Lots 28 and 29, Block 16, Section B in the City of Newport Beach, County of Orange, State of California (APN 047-202-31), as per map recorded in Book 4, Page 27 of Miscellaneous Maps, in the Office of the County Recorder of Orange County, requesting approval of Use Permit No. 2008-031 to allow a residential care facility to operate an adult alcohol and/or drug abuse recovery treatment facility for females only; and

WHEREAS, on February 12, 2009, the Hearing Officer held a noticed hearing in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California at which time the project application was considered. Notice of time, place and purpose of the public hearing was given in accordance with law and testimony was presented to, and considered by, the Hearing Officer at the hearing; and

WHEREAS, a use permit for the proposed residential care facility has been prepared in accordance with the provisions of Chapter 20.91A of the Municipal Code, which states that in addition to the required findings in Section 20.91.035 (A), the findings required for a use permit in Section 20.91A.060 must also be made; and

WHEREAS, the required findings of Section 20.91.035 (A) and facts in support of such findings are as follows:

- 1. Finding: That the proposed location of the use is in accord with the objectives of this code and the purposes of the district in which the site is located.**

Facts in Support of Finding:

The subject property is located within an R-2 District, and the proposed use as a residential care facility is a nonconforming use. Nonconforming uses in a residential district are subject to the provisions of Chapter 20.91A of the NBMC. The proposed application for Use Permit No. 2008-030 is in accord with the objectives and requirements of Chapter 20.91A with respect to the requirement for the submittal of an application for approval of a use permit to continue the use of the subject property as a residential care facility in the R-2 District.

The objectives of the code include provisions intended to reduce, through the use permit process, the potential for overconcentration of residential care facilities within a neighborhood and to protect public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the

neighborhood of such use. The City has characterized an overconcentration as more than one residential care facility existing within one block length. Within the mid-Balboa Peninsula area, the City has determined that a block length is 617 feet, which is the calculable median block length within the Nonstandard Subdivision Areas, including Balboa Peninsula. It is appropriate for the Hearing Officer to consider the center of Balboa Boulevard as a dividing line for purposes of applying the standard of block length and that a block length does not constitute a 617 foot radius distance surrounding a proposed use on all sides because the City's ordinance considers a block as "an area that is bounded on all sides by streets." The areas on the opposite side of West Balboa Boulevard are considered as separate blocks; however, in applying the block length standard as being on one side of West Balboa Boulevard, smaller streets such as 16th and 17th Streets can be streets to be considered within a block in an effort to eliminate the differences in block lengths to achieve a 617-foot block length standard.

The Ocean Recovery facility is the only proposed residential care facility within a block length of 617 feet. For this reason, the use, as approved with conditions, is compatible with the residential character of the surrounding neighborhood and will not contribute to creating an institutional character for the area.

The Ocean Recovery facility is approximately 820 feet from a large state-licensed day care facility (Christ Church by the Sea Children's Center) and approximately 1000 feet from Newport Elementary School. These uses are a sufficient distance from the proposed Ocean Recovery facility so that these uses will not be affected by the use or operations of the proposed Ocean Recovery facility.

2. **Finding: That the proposed location of the use permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.**

Facts in Support of Finding:

General Plan Policy LU 6.2.7 directs the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law so as to minimize impacts on residential neighborhoods. Approval of a use permit for the facility includes conditions regulating the use and operational characteristics of the facility, including a reduction in the number of beds, limitations on parking, assembly uses, control of secondhand smoke, noise, and transportation of clients.

The intensity of the use, a ten bedroom facility, with a recommendation to allow a permitted bed count of 14 residents, is less than the maximum occupancy of 21 residents provided for in Section 20.91A.050 of the NBMC which establishes a maximum standard of two resident beds per bedroom for a residential care facility.

The subject property provides for four on-site parking spaces. While a 1:3 ratio of off-street parking spaces to beds is directed by the Code, an exception to this ratio to require 1:3 + 2 beds (equal to 14 beds total) is appropriate in this case with the following conditions of approval:

- The number of permitted beds be reduced from 16 to 14;
- All converted garages must be converted back and used for parking only;
- All assembly uses are prohibited, except those that solely involve client residents of the facility (and in some cases small meetings of a client's family members with facility staff);
- All interactions whereby a client resident's identity is released or known to non-clients must comply with ADP rules and regulations;
- The four cleared off-street parking spaces shall be used solely for:
 - Staff parking;
 - Visitor and family member parking; and/or
 - Client transport vans; and
- Clients are prohibited from having personal vehicles at the facility during their stay at 1601 West Balboa Boulevard.

The continued use of the subject property as a residential care facility will be subject to conditions of approval requiring that the facility be operated in a manner that will ensure that the operation of the facility will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the facility.

- 3. Finding: That the proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.**

Facts in Support of Finding:

The use, if approved subject to conditions through the use permit, will comply with the operational standards of 20.91A.050 of the NBMC, as outlined in the Facts in Support of Finding No. A of NBMC Section 20.91A.060, as described herein.

- 4. Finding: If the use is proposed within a Residential District (Chapter 20.10) or in an area where residential uses are provided for in Planned Community**

Districts or Specific Plan Districts, the use is consistent with the purposes specified in Chapter 20.91.A and conforms to all requirements of that Chapter.

Facts in Support of Finding:

The proposed use is a nonconforming use as specified in Chapter 20.91A of the NBMC and an application for a use permit to continue the use has been filed by Ocean Recovery, the project applicant, consistent with the requirements of Chapter 20.91A. As approved, Use Permit No. 2008-031 includes conditions of approval requiring the continued use of the subject property as a residential care facility to be operated in a manner that conforms to all requirements of Chapter 20.91A by restricting the potential for secondhand smoke impacts to neighboring properties, providing for adequate parking, ensuring that contact information for the facility is available at all times, that the facility operates pursuant to the terms of the license issued to the facility by ADP, that other certifications, as appropriate, be obtained by the facility, and by requiring the names of all owners of the facility to be available to the City.

WHEREAS, the required findings of Section 20.91A.060 and facts in support of such findings are as follows:

- A. Finding: The use conforms to all applicable provisions of Section 20.91A.050. These development and operational standards are summarized as follows:**
- a. No secondhand smoke can be detectable outside the property.**
 - b. Facility must comply with state and local law, and the submitted management plan, including any modifications required by this use permit.**
 - c. A contact name and number must be provided to the City**
 - d. No services requiring a license can be provided if the facility does not have a license for those services.**
 - e. There shall be no more than two persons per bedroom plus one additional resident, unless a greater occupancy is requested and granted. Occupancy must also comply with State licensing if applicable.**
 - f. If certification from an entity other than ADP's licensing program is available, applicants must get that certification.**

- g. All individuals and entities involved in the facility's operation and ownership must be disclosed.**
- h. No owner or manager shall have any demonstrated pattern of operating similar facilities in violation of the law.**

Facts in Support of Finding:

- a. The facility's current operational regulations discourage smoking at the facility; however, the regulations also provide for a designated smoking area within an exterior unenclosed patio of the facility. The use permit includes a condition of approval requiring that smoking be restricted to a designated area of the facility. If the designated smoking area is provided on an external patio, the patio shall be partially enclosed in a manner that directs smoke toward the rear alley of the property or toward 16th Street adjacent to the facility, and away from adjacent residences. In addition, the Operator will prohibit clients, staff, or residents from littering cigarette butts on the ground, floor, deck, sidewalk, gutter, boardwalk or street.
- b. The operations of this facility shall be compliance with the state ADP license, and as conditioned, the facility will comply with the Operations and Management Plan for the facility.
- c. Appropriate names and contact information numbers are provided within the application and, as a condition of approval of this application, the appropriate "after hours" names and contact information numbers would be provided to the City.
- d. The Operation and Management Plan for the facility provides that only those services permitted by the facility's ADP license are performed within the facility. The ADP license does not permit treatment services to non-resident clients nor does it allow non-resident clients to interact with clients unless all clients have signed privacy rights waivers authorizing non-clients to know that the clients are in recovery.
- e. The facility is licensed for a maximum occupancy of 16 residents. The facility contains ten bedrooms with a bed capacity of two beds per bedroom in each of the two bedroom units and four beds distributed among three bedrooms in the four-bedroom unit for a total occupancy of 16 residents. Approval of the use permit includes a condition of approval requiring the maximum occupancy of the facility be limited to 14 residents, due to parking constraints, with no more than two residents per bedroom, consistent with the residential occupancy design of the building.

- f. Approval of the use permit includes a condition of approval requiring the applicant to consider the merits of additional certification available to it, including but not limited to an Orange County Adult Alcohol and Drug Sober Living certification. In the event that the applicant deems such certification inapplicable to this treatment use, the applicant is required to prepare a letter so stating these facts and to submit the letter to the City within 60 days of the issuance of a use permit.
- g. All employees and management personnel have been disclosed in the application documentation.
- h. According to information provided in the application documentation the owners and managers of the facility own and operate a similar facility located at 1115 West Balboa Boulevard in the City of Newport Beach. The State of California ADP license for this facility is in good standing and expires in December 2010. Approval of the use permit includes a condition of approval specifically directing that all interactions, wherein a client resident's identity is released or known to non-clients, must comply with ADP's privacy rules and regulations.

B. Finding: The project includes sufficient on-site parking for the use, and traffic and transportation impacts have been mitigated to a level of insignificance.

Facts in Support of Finding:

The NBMC requires off-street parking and loading spaces for a residential care facility at a ratio of one space for every three beds. The facility provides four on-site parking spaces. Approval of the use permit for the facility includes a condition that limits the occupancy to 14 and restricts other uses such as assembly uses and clients' ability to have a personal vehicle on-site. This condition appropriately addresses the fact that the facility location is within a four-unit former apartment building providing only four parking spaces.

The use permit includes a condition of approval, requiring the applicant to make available and maintain all areas designated for parking, including the existing four garage spaces, for parking purposes.

A facility van provides transportation for the residents on a weekly schedule dispersed within the day and among the days of the week so that van transportation is not concentrated during peak traffic times. Van loading and unloading is conducted in front of the facility along West Balboa Boulevard and/or the 16th Street frontage. As part of the approval of the use permit a condition of approval is included that restricts loading and unloading of van passengers to be conducted within open parking spaces along West Balboa Boulevard and/or 16th

Street, and van drivers are prohibited from stopping or double-parking in a traffic lane. When not in use, the client transport van must be parked in a garage space.

C. Finding: The property and existing structures are physically suited to accommodate the use.

Facts in Support of Finding:

The building is similar to many other residential structures along West Balboa Boulevard constructed on a parcel that measures approximately 50 feet wide by 100 feet deep. The four-unit building was constructed on two lots in 1958 with approval of Use Permit No. 420, when the subject property was zoned R-3.

The City of Newport Beach Fire Department is the responsible agency for implementing fire protection of all residential care facilities and residences. The subject property has an approved fire clearance from the City of Newport Beach Fire Department dated December 19, 2002, for a maximum occupancy of 18 residents, as well as staff. Separate from the use permit process, the applicant may be required to conduct an architectural code analysis of the facility to determine if the facility complies with current Building Codes for this occupancy type, or the Building Codes existing at the time the facility was initially issued a "fire clearance."

D. Finding: The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood, such as creating an overconcentration of residential care uses in the vicinity of the proposed use. In making this finding or sustaining such a finding, the Hearing Officer shall consider, as appropriate, the following factors:

- a. **The proximity of the use location to schools, parks, other residential care facilities, outlets for alcoholic beverages and any other uses which could be affected by or affect the operation of the subject use;**
- b. **The existence of substandard physical characteristics of the area in which the use is located such as lot widths, setbacks, narrow streets, limited available parking, short blocks, and other substandard characteristics which are pervasive in certain areas of the City of Newport Beach, including portions of West Newport, Lido Isle, Balboa Peninsula, Balboa Island, Corona del Mar and Newport Heights, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Newport Beach**

Planning Commission on September 20, 2007 and on file with the Director of Planning; and

- c. Whether, in light of the factors applied in subsections 20.91A.D.1 and D.2, it would be appropriate to apply the American Planning Association standard of permitting one or two such uses per block. Median block lengths in different areas of Newport Beach widely range from 300 feet in the Nonstandard Subdivision Areas to as much as 1,422 feet in standard subdivision areas. The average calculable block length in much of the standard subdivision areas is 711 feet and the calculable median block length is 617 feet. The Hearing Officer shall apply the American Planning Association standard in all areas of Newport Beach in a manner that eliminates the differences in block lengths. In making this determination, the hearing officer shall be guided by average or median block lengths in standard subdivisions of the City. The Hearing Officer shall retain the discretion to apply any degree of separation of uses, which he or she deems appropriate in any given case. A copy of the American Planning Association standard is on file with the Director of Planning.**

Facts in Support of Finding:

On the north side of West Balboa Boulevard between 15th Street and 18th Street and across the street from the proposed Ocean Recovery facility, are the Las Arenas Park, the Veterans Memorial Park, the Marina Park and the Balboa Community Center. An existing state licensed day care facility is located approximately 820 feet from the subject property, and Newport Elementary School is approximately 1000 feet from the subject property. These uses are a sufficient distance from the proposed Ocean Recovery facility so that these uses will not be affected by the use or operations of the proposed Ocean Recovery facility.

The proposed Ocean Recovery facility is approximately 500 feet from one alcoholic beverage outlet and approximately 740 feet from another outlet selling or serving alcohol, a sufficient distance from these facilities that the proximity of the proposed use to these facilities will not affect the ability of the use to fully operate as an alcohol rehabilitation facility.

The NBMC includes provisions to ensure, through the use permit process, that a proposed residential care facility is compatible with the surrounding residential neighborhood and specifically, that approval of a use permit for the continued operation of a residential care facility does not result in an institutionalization of the surrounding neighborhood through an overconcentration of facilities. The proposed Ocean Recovery facility is located in the mid-Balboa Peninsula area

that is a part of the Nonstandard Subdivision Area. Inasmuch as Section 20.91A 060 (D.3) indicates median block lengths in different areas of Newport Beach widely range from 300 feet in the nonstandard subdivision areas to as much as 1,422 feet in standard subdivision areas, a block length for the mid-Balboa Peninsula area where this use is located may be established. In order to establish a block length for the mid-Balboa Peninsula area, the City has determined that it is appropriate to apply a median block length pursuant to the standards of the American Planning Association. The City has determined that a calculable median block length of 617 feet is a reasonable block length for purposes of evaluating the mid-Balboa Peninsula area. The placement of more than one residential care facility per this median block length in the densely populated mid-Balboa Peninsula area creates a strong likelihood of change to the character of the residential neighborhood.

The proposed use is the only existing operational residential care facility within a block length of 617 feet. The nearest operating residential care facility to the subject property is the Newport Coast Recovery facility, located approximately 1,600 feet from the proposed Ocean Recovery facility, which has been denied a use permit for continued operation. The proposed Ocean Recovery facility will be compatible with the residential character of the surrounding neighborhood and will not contribute to the institutionalization of the area.

- E. Finding: The operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area.**

Facts in Support of Finding:

A facility van provides transportation for the residents on a weekly schedule dispersed within the day and among the days of the week so that van transportation is not concentrated during peak traffic times. Van loading and unloading is at the West Balboa Boulevard and/or 16th Street frontage that is less congested than the narrower alley access at the rear of the building. As part of the approval of this use permit, a condition of approval is included requiring the loading and unloading of the transportation van passengers to occur only in open parking spaces on West Balboa Boulevard and/or 16th Street, and prohibiting the van drivers from stopping or double-parking in a traffic lane.

- F. Finding: Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.**

Facts in Support of Finding:

Staff members deliver business products and other packages and goods to the facility in their private vehicles during weekdays between the hours of 9:00 a.m. to 5:00 p.m. These days and hours for deliveries are consistent with normal working hours, and as such, are compatible with and will not adversely affect the peace and quiet of neighboring properties.

G. Finding: Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.

Facts in Support of Finding:

The proposed Ocean Recovery facility does not contract with a commercial trash collection service, however, as part of the approval of this use permit, a condition of approval is included requiring the operator to hire and maintain a commercial bin service, and to limit pick-up to one weekday per week between 9:00 a.m. and 5:00 p.m. The bin, when not being dumped, must be stored in a manner acceptable to the City.

WHEREAS, the project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The Hearing Officer on behalf of the City of Newport Beach hereby approves Use Permit No. 2008-031, subject to Conditions of Approvals in Exhibit "A" attached hereto and made part hereof.

Section 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 12TH DAY OF MARCH 2009.

BY: _____
Thomas W. Allen, Hearing Officer

ATTEST:

CITY CLERK

EXHIBIT "A"

CONDITIONS OF APPROVAL

USE PERMIT NO. 2008-031

OCEAN RECOVERY, LLC at 1601 WEST BALBOA BOULEVARD

1. **Occupancy Level.** The operator of Ocean Recovery, LLC, hereinafter referred to as "Operator," shall limit occupancy of this facility to 14 client beds. No more than 14 persons in recovery may reside at the facility.
2. **Staffing.** Operator shall have enough staff to appropriately and responsibly manage the facility; including at least one qualified manager on-site at all times (24 hours a day, seven days a week).
3. **Governmental Referrals.** Operator shall not provide any services to any client or house any client who has been referred or caused to be referred to Ocean Recovery's facility by any governmental agency, including but not limited to probationers or parolees, due to the limitations that Section 509.9 of the California Building Code places on Group I and R occupancies.
4. **Assembly Uses.** Assembly uses are prohibited, except those that are limited solely to client residents of the facility and facility staff (and in some cases small meetings of a client's family members with facility staff).
5. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.
6. **Trash and Trash Enclosures.** Operator shall hire and maintain a commercial bin service, and limit pick-up to one weekday per week between 9:00 a.m. and 5:00 p.m. The bin, when not being dumped, must be stored in a manner acceptable to the City.
7. **Smoking and Tobacco Products.** Smoking on-site shall be restricted to a designated area. If the designated smoking area is provided on an external patio, the patio shall be partially enclosed in a manner that directs smoke toward the rear alley of the property, or 16th Street, and away from adjacent residences. In addition, Operator will not allow clients, staff, or residents to litter cigarette butts on the ground, floor, deck, sidewalk, gutter, boardwalk or street. Operator's administrators and managers shall actively enforce, on the City's behalf, the City's prohibition on clients' tobacco use on beaches, boardwalks, and piers (NBMC §11.08.080), including when Operator's clients are at "AA" meetings off-site.

8. **Parking.** Operator shall keep all four (4) parking spaces at the facility open and available for parking for staff, and visiting family members' vehicles, cleaning persons' vehicles, and client transport vans at all times. In the event that visitors to the facility require additional parking, they may use up to three off-site parking spaces at any one time. In order to use the on-street parking spaces, all four garage spaces must be occupied with staff or visitor's vehicles. The operator shall purchase three master parking permits from the City for use of on-street parking. Clients to the facility are not permitted to have personal vehicles at the facility.
9. **Client Transport.** Operator shall ensure that loading and unloading of passengers of the facility's transportation van shall occur only in open parking spaces on West Balboa Boulevard, 16th Street, or garage spaces. The van driver is prohibited from stopping or double-parking in a traffic lane to load and unload passengers. In addition, client drivers shall respect all City rules regarding parking and/or stopping and waiting to load residents. Client transport vehicles shall not block adjacent alleys or street ends. Client drivers shall not leave vehicles in reverse gear if reverse has an audible back-up warning sound. Client drivers shall speak to residents at a level protective of neighborhood peace, cognizant of the hour, to avoid waking neighbors.
10. **Curfew and Quiet Hours.** The facility must maintain Curfew and Quiet Hours (where persons on the street or on adjacent properties cannot hear any noise from 1601 West Balboa except in an emergency) of between 10:00 p.m. to 8:00 a.m. daily.
11. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.
12. **Noise.** Operator shall strictly adhere to the City's noise standards (NBMC §10.26.025; 10.26.030). Operator shall be responsible for minimizing clapping, stomping, or other noises at meetings or gatherings at the subject property, consistent with NBMC §10.26.030.
13. **Route Plans.** Operator shall adhere to the Route Plans for transport of its staff, residents, clients, and customers. The Route Plans are included in the Operations and Management Plan. Short-term interruptions, such as medical emergencies or street maintenance beyond Operator's control, are allowable modifications to the Route Plans.

14. **Deliveries.** Staff members in their private vehicles deliver business products and other packages and goods to the facility during weekdays between the hours of 9:00 a.m. to 5:00 p.m.
15. **Hotline.** Operator shall establish, provide public notice of, and operate a hotline for receiving inquiries and/or complaints in reference to its operation of its facility. The phone number need not be staffed 24 hours a day seven days a week, but callers should be responded to within the next 24-hour period.
16. **Stakeholder Group.** Upon invitation by the City, Operator shall participate in the activities of any stakeholder committee or group established by the City to address complaints and concerns of residents of the City regarding the operation of Residential Care Facilities in the City.
17. **Persons per Bedroom.** Operator shall not allow more than two clients in one bedroom. This is consistent with the provisions of the ADP license.
18. **State Licensing, Treatment, and Occupancy.** All occupancies at the subject property shall comply with the State ADP License Number 300144AP, which expires on December 31, 2010, and any successor license offering the same treatment services. Operator shall maintain ADP licensing throughout the duration of this use permit. The ADP license does not permit treatment services to non-resident clients nor does it allow non-clients to interact with clients unless all clients have signed privacy rights waivers authorizing non-clients to know that the clients are in recovery. Therefore, all interactions whereby a client resident's identity is released or known to non-clients must comply with ADP's privacy rules and regulations.
19. **Building and Zoning.** Operator recognizes that subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of obstruction, including building obstruction. The orderly storage of trashcans is acceptable in setbacks.
20. **Facility Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regards to any of these issues, Operator shall correct the violation within seven days or contact the City directly to negotiate a mutually agreeable timeline.
21. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches for meetings, prayer, conversation, or other gatherings shall show due respect to non-resident visitors, residents, and other beachgoers, thus allowing them to take full enjoyment of the beach. Operator shall not conduct business on the beach (per NBMC §10.08.030).

22. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and required counseling). Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home.
23. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this use permit shall not constitute a waiver of the requirements of any federal, state or local law, including the requirements of the California Building Code.
24. **Grant of Use Permit.** Use Permit No. 2008-031 is granted to Ocean Recovery, LLC to operate an adult alcohol and/or drug abuse recovery treatment facility for females only, and all clients of the facility shall be classified as disabled, as that term is defined by federal and state fair housing laws. The Operator shall execute an affidavit declaring that all clients receiving services from this facility are disabled persons.
25. **Additions or Modifications to Conditions of Approval, or Revocation of Use Permit.** The Hearing Officer or City Council may add or modify conditions of approval to this use permit, or revoke this use permit upon a finding of failure to comply with the conditions set forth. The City Council may also revoke, modify, or amend this use permit if it determines the conditions under which this facility is being operated or maintained are detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, or if the facility is materially injurious to property or improvements in the vicinity, or if the facility is operated or maintained so as to constitute a public nuisance. In any proceeding to revoke this use permit, the cumulative effect of violation of two or more conditions shall be considered.
26. **Compliance with Conditions of Approval.** Any changes in operational characteristics, including but not limited to the following, shall require an amendment to this use permit or issuance of a new use permit:
 - a. Modification, expiration without renewal, or loss of ADP license.
 - b. Increase in number of client residents.
 - c. Change in on-site staffing affecting the ability of the operator to adequately manage the facility and provide supervision of its residents.
 - d. Increase in physical capacity of facility including number of beds, number of bedrooms, floor area of facility, etc.
 - e. Change in the Operations and Management Plan.

- f. Request for amendment to any condition or conditions of approval.
- g. Change in property ownership in a manner that causes the majority of the property to be owned by a person or entity not identified in the Use Permit or its application.
- h. Alteration and/or loss of approved on-site parking.
- i. Upon determination by the Planning Director, a change in facility management, a change in facility ownership, or a change in the population served by this facility.
- j. Any other material change in the operational characteristics that is not in substantial conformance with the Operation and Management Plan, upon determination by the Planning Director.

Exhibit "B"

OCEAN RECOVERY, LLC

Use Permit No. 2008-031
(PA 2008-102)

Operations and Management Plan

The following are attached as Exhibits 1-13

Attachment Number
1. Form 100 (standard Group Residential Use Permit Application) as modified per Exhibit A, Conditions of Approval
2. Form 150 (administrator or director information)
3. Form 200(Corporation)
4. Evidence of Capacity and Need
5. Location Map
6. Site Plan
7. Building Diagram/Floor Plan(s)
8. Route Map (Transit and More)
9. Facility Staffing Data (Form 400)
10. Weekly Activities Schedule (Form 500)
11. Approved Fire Clearance from the Newport Beach Fire Marshal
12. Copy of ADP Licensure Application
13. Revised Pages 14 and 16 of Form 100 submitted January 29, 2009

Exhibit 1

Form 100 (standard Group Residential Use Permit Application) as modified per Exhibit A, Conditions of Approval

City of Newport Beach
GROUP RESIDENTIAL USES – USE PERMIT APPLICATION
STANDARD GROUP RESIDENTIAL USE PERMIT APPLICATION
(Form 100 – Revised March 2008)

1. APPLICANT/FACILITY PROGRAM INFORMATION

STEP 1: Completely fill out **Form 150** (attached).

STEP 2: Fill out the following:

TYPE OF ORGANIZATION:

For Profit Nonprofit

Other, please explain: _____

PROPERTY OWNERSHIP:

Own Rent Lease Other (specify): _____

IS THE OPERATOR/MANAGER ALSO THE LESSEE OF THIS PROPERTY?

Yes No

If no, please explain: _____

IS THE APPLICANT OR PROGRAM OPERATOR PART OF A PARTNERSHIP, CORPORATION, FIRM, OR ASSOCIATION?

Yes No

If yes, please fill out and attach either **Form 200C** (if 200C, applicants must fill out **Form 200D**) or **Form 200P**, whichever is applicable.

2. PROPERTY OWNER INFORMATION

CARPA LLC

Name of Property Owner where facility is proposed (if Corporation, legal name of Corporation) _____

111 No. Sepulveda Blvd. **Manhattan Beach, CA** **91266**
(Mailing Address of Property Owner) (City/State) (Zip)

(310) 376-8794 **(310) 374-0985**
(Telephone) (Fax number)

(E-Mail address) _____

1601 W. Balboa Blvd. **04720231**
(Subject Property Address) Assessor's Parcel Number (APN)

B. Other Similar Uses. What uses, not operated by or affiliated with you or your firm, are of a similar type as your proposed use here in Newport Beach? Please cite address(es) of facility(ies) (attach more pages if necessary):

EXAMPLE:

1234 Main Street, Newport Beach	Unlicensed "Sober Living"	7
Site Address	Type of Use	Bed Capacity
1810 W. Oceanfront, Newport Beach	Group Residential	Unknown
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
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Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity

C. Evidence of Need for this Extent of Use. Per NBMC §20.91A.030 (E), please attach **Evidence of Capacity and Need** by residents of Newport Beach for this capacity based on published sources.

4. YOUR FIRM'S HISTORIC USES

Per the requirements of NBMC §20.91A.030.G & H, in the past five (5) years, have you or your firm or any entity or person affiliated with you or your firm operated, managed, or owned other group residential uses in California?

Yes No

If yes, show the site address(es) of each facility(ies) and show whether the facility(ies) have ever been in violation of Federal, State or local law (attach additional pages if necessary):

EXAMPLE:

1234 Main Street, Santa Barbara	ADP-Licensed Facility	8
---------------------------------	-----------------------	---

If Yes, please explain: _____

5. **LOCATION MAP AND SIMILAR USES**

Provide a Location Map showing the location of the proposed use plus all known conditional uses within a three-block radius. Include the property addresses of the proposed use and known conditional uses. Please consult the Newport Beach Planning Department (949-644-3225) for nearby conditional uses.

6. **SITE PLAN**

Provide a Site Plan that shows the facility's building footprint and property lines. Include property lines and building footprints on immediately adjacent parcels. Note the uses (i.e. *single family use, group residential use, or other*) on adjacent parcels.

7. **LICENSE AND PERMIT HISTORY OF APPLICANT**

A. Per NBMC §20.91A.030(H), please summarize the license and permit history of each facility applicant or operator has managed, owned, or operated in the State of California within the last five (5) years which require either a license or a permit by the State or by a locality (attach additional sheets if necessary):

Ocean Recovery LLC, 1601 W. Balboa Blvd., Newport Beach: same as current license and use since 2002;

Ocean Recovery LLC, 1115 W. Balboa Blvd., same as current license and use since 2005
Name and Address of Facility

Please describe the nature of the license or use permit, the issuing agency, its reference number (if applicable), and any enforcement actions by any agency against the license or use permit:

See attached ADP License and Business Tax Certificate

No enforcement actions against license or use

B. Has the applicant ever voluntarily surrendered, had a denial, suspension, or revocation of a residential license for an alcoholism or drug abuse recovery or treatment facility or a facility licensed by the California Department of Alcohol and Drug Programs (ADP) or the California Department of Social Services - Community Care Licensing?

Yes No

If yes, the date license was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

C. Has the applicant ever voluntarily surrendered, had a denial, suspension, or revocation of a Use Permit or similar permit for a group residential use in this community or another community?

Yes No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

D. Has the applicant ever voluntarily surrendered, had a denial, suspension or revocation of a certification by any public or private agency other than ADP or the California Department of Social Services-Community Care Licensing for a group residential use in this community or another community?

Yes No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

8. **NATURE AND CHARACTERISTICS OF PROPOSED USE**

Per NBMC §20.91A.030(A-D), please provide the following information about each proposed facility (attach additional sheets if necessary). The components of this Section 8 (and other sections) comprise the *Operations and Management Plan* and *Rules of Conduct* envisioned by NBMC §20.91A.050.B:

A. **TYPE OF ALCOHOL AND/OR OTHER DRUG RECOVERY OR TREATMENT SERVICES PROVIDED** (for ADP-licensed facilities only -- check all that apply):

Non-Medical Detoxification

Group Sessions

One-on-One Sessions

Educational Sessions

Recovery or Treatment Planning

Other: _____

B. **NUMBERS AND TYPES OF FACILITY USERS & STAFF:**

TOTAL OCCUPANCY OF FACILITY (This is the maximum number of individuals who live at the facility and are approved by the fire safety inspector.) These individuals include the residents receiving recovery, treatment or detoxification services, children of the residents, and staff. Staff includes individuals who work for the applicant in exchange for either monetary or in-kind compensation (e.g., room and board). Total occupancy cannot be exceeded for any reason. 18

MAXIMUM REQUESTED ADULT RESIDENT CAPACITY OF THE FACILITY (The number of adult residents that receive recovery, treatment or detoxification services at any one time, which cannot be greater than the total occupancy shown above): 18

MAXIMUM NUMBER AND AGE RANGE OF DEPENDENT CHILDREN WHO ARE SUPERVISED BY THEIR PARENT(S) IN THE FACILITY. This includes temporary residing (i.e., overnight, weekend visits) of dependent children. (Since there must always be at least one adult being served, the maximum number of dependent children housed must be at least one less than the total occupancy, determined by the fire inspector, as shown above): 0

Are all clients who reside on-site disabled persons? Yes, under ADA standards

Number of staff who will reside on-site: **0 (1 staff members are on duty on-site over night)**

Maximum number of staff who will provide services during any one week to clients at the facility: **10 (approx. 4 staff members on site during the day; 1 on site over night)**

Provide the **Facility Staffing Form** shown as **Form 400** to this Application.

Total number of employees of provider:

Please characterize the nature of staff services to the facility (i.e., nutritionists, massage therapists, counselors, maids, cooks, etc):

Counselors, Administrator, Office Manager, Clinical Supervisor, Program Director, Driver

Maximum number of clients who will use the facility on any one day but reside elsewhere: **0 (Program alumni attend meetings, but maximum number allowed in sessions does not exceed 22)**

Maximum number of client visitors who will visit the facility during any one week: **Approx. 10 (by appointment only)**

Maximum number of others who will visit the facility during any one week: **Approx. 10**. Please explain:

Program alumni and client family members may visit, by appointment only.

C. BUILDING DIAGRAM/FLOOR PLAN

Include a Building Diagram showing all building(s) to be occupied, including a floor plan of all rooms intended for residents' use. Include the grounds showing buildings, setbacks, driveways, fences, storage areas, pools, gardens, recreational area and other spaces. All sketches shall show dimensions but need not be to scale. Identify the number of residents per bedroom and the location and the number of beds for all residents, including the location of beds for infants and other non-ambulatory persons. The Building Diagram supplied with this application must be accurate as to existing conditions in the building and must be consistent with the building plans currently on file with the Newport Beach Building Department for permitted construction.

D. DURATION OF TYPICAL CLIENT STAY IN FACILITY (in days): 90 days

If you wish, please explain:

Stays vary from 30 to 90 days

E. IS THE FACILITY ACCESSIBLE TO INDIVIDUALS IN WHEELCHAIRS OR OTHER NONAMBULATORY CONDITIONS?

Yes No

NOTE: The Americans with Disabilities Act of 1990 (ADA) is a comprehensive federal anti-discrimination law for people with disabilities. The City reminds all providers of residential recovery facilities that discrimination against persons with disabilities is prohibited. Please contact Newport Beach's Building Department (949-644-3275) for specific ADA requirements that may apply to your facility.

24/7 Other (please describe) _____

Will there be a curfew? If so, please note quiet hours:

10 p.m. – 8 a.m. Other (please describe) 10:00 pm - 7:30 Am Weekdays
12:00 pm - 8:00 Am Weekends

Besides household activities, what types of care-related activities will occur on-site, and how many residents and non-residents (including staff and clients from other facilities) will attend?

"AA"-type meetings _____ Physical Fitness (gym, yoga, etc) _____
 ADP-Treatment (see 5A) 16 Other wellness (massage, etc) _____
 Meal preparation/delivery _____ Other: Tai Chi, Kung Fu

Provide the Weekly Schedule of Services shown as Form 500 to this Application.

G. DELIVERY INFORMATION:

What types of deliveries will occur at the facility and how often (per day or per week – circle whichever is applicable) will they occur?

Laundry Services: _____ /day or week Trash disposal or recycling: _____ /day or week
Monday's in winter; Saturdays in summer
 Meals: _____ /day or week Business products: _____ /day or week
 Correspondence, packages (other than USPS): _____ /day or week
 Medical Products/Medical Waste Pickup: _____ /day or week
 Other: Bottled water _____ 1 /day or week

H. TRANSPORTATION AND PARKING:

Will clients residing on-site be allowed to use personal vehicles and/or keep them on-site or nearby?

Yes No

If Yes, describe where clients will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

If No, describe other modes of transportation that clients will use (bus, other transit, bicycle, other).

Bus (OCTD), bicycle, van (the facility has a 12-passenger van.)

Please provide a **Route Map** showing transit and travel routes that will be used to transport clients off-site, showing destinations of travel and approximate times of departure and return.

Will staff serving the facility be allowed to drive personal vehicles to the site?

Please provide a **Route Map** showing transit and travel routes that will be used to transport clients off-site, showing destinations of travel and approximate times of departure and return.

Will staff serving the facility be allowed to drive personal vehicles to the site?

Yes No

If Yes, describe where staff will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

On-site parking and/or street parking – Balboa Blvd. and 16th Street

NOTE: The City may not authorize on-street parking for clients or staff depending upon how impacted the facility's streets are.

I. MEDICAL AND BIO-WASTE

NBMC §6.04.120 (Health and Sanitation: Prohibited Materials) prohibits the disposal of certain medical waste or bio-waste into the City's refuse disposal system. Syringes, needles, urinalysis cups, and other waste must be disposed of in accordance with the NBMC and other applicable laws. If you are uncertain as to what wastes can be disposed of in the City's disposal system, contact the City's General Services Department at 949-644-3066.

Applicants who will be disposing medical waste or other bio-waste must provide a Disposal Plan for Medical and Bio-Waste showing how and where these wastes are disposed of (required by NBMC §20.91A.030.I).

Please attach the **Disposal Plan** if applicable. **N/A**

J. RULES OF CONDUCT – GOOD NEIGHBOR PRINCIPLES

If you have them, please include any documents that describe rules of client conduct and/or *Good Neighbor Principles* that your facility's staff and clients will adhere to if the City issues a Use Permit for this facility.

The City of Newport Beach has developed *Good Neighbor Principles* for these uses (see the City's website under Group Residential Uses).

Please state whether you agree voluntarily to comply with the City's *Good Neighbor Principles*:

Yes No

K. OTHER AVAILABLE CERTIFICATIONS

NBMC §20.91A.050.C.4 directs that applicants shall attain certification (or similar validation), where available, from a governmental agency or qualified non-profit organization. This includes:

- The Orange County Sheriff's Department's Orange County Adult Alcohol and Drug Sober Living Facilities Certification Program (see www.ocsd.org for more information or contact Certificate Coordinator Lt. Jeff Bardzik at 714-773-4523 or jbardzik@ocsd.org or Margo Grise at 714-773-4521 at mgrise@ocsd.org. This certification is required.
- The Orange County Sober Living Network (see http://www.soberhousing.net/orange_county.html or contact Grant McNiff at 714-875-2954. This certification is recommended.

You do not have to attain the OCSD certification to apply for a Use Permit, but we suggest that you attain the

certification within a reasonable amount of time (twelve [12] months) following your application submittal. Should a Use Permit be issued, it may include a condition that certification be obtained within a stated time period. If you have attained this certification prior to applying for the Use Permit, verify here that you have attained this certification, and **attach the verifying document** from the certifying entity:

Orange County Adult Alcohol and Drug Sober Living Facilities Certification (required)

Orange County Sober Living Network (recommended)

Other (please describe) _____

L. SECONDHAND SMOKE LIMITATIONS

NBMC §20.91A.050.A directs that "no staff, clients, guests, or any other uses of the facility may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the facility is located. Check and sign here to acknowledge this requirement and your use's adherence to it:

I acknowledge that I will control secondhand smoke on my facility such that no secondhand smoke may be detected on any parcel other than the parcel upon which my facility is located.

Signature: _____

Date: _____

9. APPLICANT OBLIGATIONS

- A. The "owner of record" of the property or an authorized agent must sign this Application. Signing the application under Section 10 means that the applicant certifies, under penalty of perjury, that the information provided within the Application and its attachments is true and correct. Per NBMC §20.90.030.C, false statements are grounds for denial or revocation.
- B. The Applicant acknowledges that he or she must comply with all other Federal, State, and local laws and regulations relating to this use. The Applicant understands that a violation of Federal, State, and local laws and regulations is grounds for revocation of the Permit. The Applicant understands and acknowledges that it is against California law to provide treatment (as defined) in an unlicensed facility.
- C. If the City issues a Use Permit based on the information provided in this Application, the Applicant's signature below certifies his or her agreement to comply with the terms of the Use Permit. The Applicant understands and acknowledges that non-compliance with the terms of the Use Permit is grounds for revocation of the Permit.

Revocation of the Use Permit. NBMC §20.96.040.E provides that the City can revoke a Use Permit if:

- The permit was issued under erroneous information or misrepresentation; or
- The applicant made a false or misleading statement of material fact, or omitted a material fact; or
- The conditions of use or other regulations or laws have been violated; or
- There has been a discontinuance of use for 180 days or more.

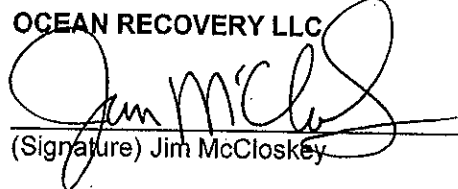
10. AUTHORIZED SIGNATURE(S) OF APPLICANT

THE UNDERSIGNED ASSURES THAT THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT AND THAT THE APPLICANT HAS READ AND UNDERSTOOD HIS OR HER OBLIGATIONS UNDER ANY USE PERMIT ISSUED BASED ON THIS APPLICATION.

- A. If the applicant is a sole proprietor, the application shall be signed by the proprietor.
- B. If the applicant is a partnership, the application shall be signed by each partner.

- C. If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual legally responsible for representing the agency.
- D. The applicant(s) affirms that the facts contained in this application and supporting documents are true and correct.

OCEAN RECOVERY LLC



(Signature) Jim McCloskey

President
(Title)

May 20, 2008
(Date)

President

Exhibit 2

Form 150 (administrator or director information)

City of Newport Beach
 GROUP, RESIDENTIAL USES – USE PERMIT APPLICATION
 ADMINISTRATOR/DIRECTOR INFORMATION
 (Form 150 – February 2008)

IDENTIFYING INFORMATION

NAME
 KATHY TUNNEY

TITLE
 Executive Director

TELEPHONE NUMBER AT WHICH OPERATOR MAY BE CONTACTED AT ALL TIMES (NBMC §20.91A.050.B)
 (949) 723-2388

ADDRESS
 1601 W. Balboa Ave, Newport Beach, CA 92661

OTHER NAME(S) USED BY ADMINISTRATOR/DIRECTOR

EDUCATION

EDUCATION CIRCLE THE HIGHEST GRADE YOU COMPLETED HIGH SCHOOL GRADUATE YES NO
 1 2 3 4 5 6 7 8 9 10 11 12 PASSED HIGH SCHOOL EQUIVALENCY TESTS YES NO

NAME AND LOCATION OF COLLEGE OR UNIVERSITY	COURSE OF STUDY	COMPLETED		DEGREE OBTAINED	DATE COMPLETED
		SEMESTER UNITS	QUARTER UNITS		
Cal State, Long Beach	Social Work			B.S.W.	1988
Trinity College	Psychology			MA	1997

MANAGEMENT EXPERIENCE


Type	Title	Date Started	Date Ended	Reason for Leaving
Ocean Recovery LLC	Program Director	2003	Present	
CADD	Program Director	1999	2002	New Position
Hoag Hospital	Family Program Director	1987	1998	New Position

DO YOU HAVE A PROFESSIONAL LICENSE OR CERTIFICATE? Yes No IF YES, COMPLETE THE FOLLOWING

Type	Period Held	Issuing Agency
	N/A	

WORK EXPERIENCE. BEGIN WITH YOUR MOST RECENT WORK EXPERIENCE. LIST ALL EXPERIENCE RELEVANT TO THIS TYPE OF USE PERMIT.

Dates	Name and Address of Employer	Duties	Reason for Leaving
FROM		See above	
TO			
FROM			
TO			

Signed 

Date 5-20-08

Exhibit 3

Form 200(Corporation)

City of Newport Beach
GROUP RESIDENTIAL USES – USE PERMIT APPLICATION
ADMINISTRATIVE ORGANIZATION & DELEGATION INFORMATION CORPORATIONS
 (Form 200 – February 2008)

INSTRUCTIONS: This form must be updated and submitted to the City each time there is a change in officers or change in the corporation.

CORPORATION

Name (as listed with the Secretary of State) OCEAN RECOVERY LLC		Chief Executive Officer Jim McCloskey	
Incorporation Date July 31, 2002		Place of Incorporation California	
Principal office of business:			
Address 1601 W. Balboa Blvd.	City Newport Beach	Zip Code 92663	Telephone (714) 791-1683
Contact Person Jim McCloskey	Title CEO	Telephone (714) 791-1683	

Names and addresses of all persons who own ten per cent (10%) or more of stock in corporation.

Governing Board of Directors

a. Number of Board Members
3

b. Term of Office
Indefinite

c. Frequency of Meetings
Twice a year

d. Method of Selection

Board Officers and Members

USE A SEPARATE SHEET FOR ADDITIONAL NAMES

Office	Name	Business Address & City & Zip Code	Telephone Number	Term Exp.
President	Jim McCloskey	1601 W. Balboa Blvd, Newport Beach, CA 92663	(714) 791-1683	Indefinite
Vice-President				
Secretary				
Treasurer	Paul Schwartz	3419 Via Lido, Suite 310, Newport Beach, CA 92663	(949) 723-2388	Indefinite
Other				

Exhibit 4

Evidence of Capacity and Need

RECEIVED BY
PLANNING DEPARTMENT

JAN 12 2003

CITY OF NEWPORT BEACH

Alcohol and Drug Treatment Needs Has Newport Beach Addressed its "Share"?

The National Survey on Drug Use and Health (NSDUH – which provides annual data on drug use in the United States) is sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA). SAMHSA is an agency of the U.S. Public Health Service and a part of the Department of Health and Human Services (DHHS). The survey provides yearly national and state level estimates of alcohol, tobacco, illicit drug, and non-medical prescription drug use. Other health-related questions also appear from year to year, including questions about mental health. The NSDUH is authorized by Section 505 of the Public Health Service Act, which requires annual surveys to collect data on the level and patterns of licit and illicit substance use.

The 2003-04 NSDUH estimates that **10.10%** of the population in California was dependent upon or abused alcohol or illicit drugs. The 2002 NSDUH says that, of all people abusing alcohol or illicit drugs, more than **94%** do not believe they need treatment – leaving **6%** who seek treatment.

FACTS ABOUT LICENSED BEDS – STATEWIDE, OC, NEWPORT BEACH

- California has a population of 36,100,000 – 10.10% of that is 3,646,000 people. California has 21,007 licensed-recovery beds (per CA ADP numbers – 1-2007)
- Orange County has a population of 2,988,072 – 10.10% of that is 301,795. Orange County has 1,495 licensed recovery beds (per CA ADP numbers – 1-2007), an amount equaling 7.117% of all licensed recovery beds in California.
- Newport Beach has a population of 83,000 – 10.10% of that is 8,300 people. Today, Newport Beach has 219 licensed recovery beds (per CA ADP numbers – 1-2007), an amount equaling 14.6% of all licensed beds in Orange County and 1.043% of all licensed beds in California.

LICENSED BED COUNT – IF DISTRIBUTED PER CAPITA

If California's 21,007 beds were distributed evenly across California's counties on a per capita basis, then Orange County would have 1,739 beds. It has 1,495.

If California's 21,007 beds were distributed evenly across California's cities on a per capita basis, then Newport Beach would have 48 beds. We have 219.

LICENSED BED DAYS – IF DISTRIBUTED BY NEED*

If 10.10% of the population in California have a problem with alcohol or use illicit drugs, and 6% of them seek treatment in a 70-day stay licensed recovery facility, then:

- California has a **shortfall** of 7,646,065 Licensed Bed Days per year;
- Orange County has a **shortfall** of 721,865 Licensed Bed Days per year; and
- Newport Beach has an **exceedance** of 44,726 Licensed Bed Days per year.

* in terms of people seeking treatment.

See charts on the following page.

DADP Licensed Beds - Statewide, OC, Newport Beach

	California	Orange County	Newport Beach
Licensed Recovery Beds	21,007	1,495	219
Population	36,100,000	2,988,072	83,000
% of Statewide Beds		7.117%	1.043%
% of Statewide Population		8.277%	0.230%
If State's 21,007 beds were evenly distributed:			
Bed Shortfall (Exceedance)	N/A	1,739	48
	N/A	244	(171)

Need & Beds Available - Statewide, OC, Newport Beach

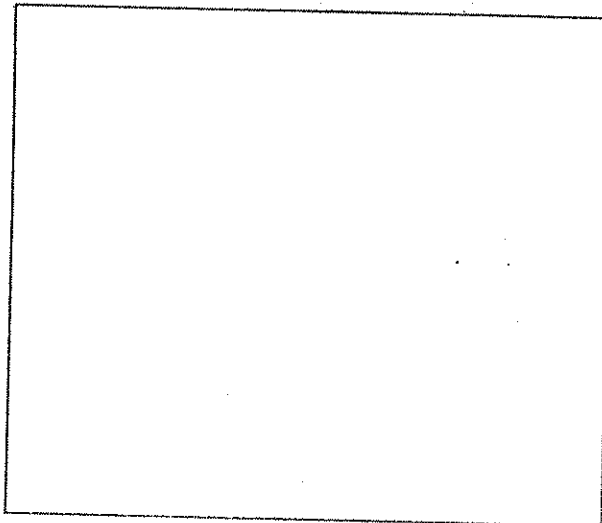
	California	Orange County	Newport Beach
Population	36,100,000	2,988,072	83,000
% of Persons who Abuse Alcohol/Drugs	10.10%	10.10%	10.10%
# of Persons who Abuse Alcohol/Drugs	3,646,100	301,795	8,383
% of Persons Seeking Treatment*	6%	6%	6%
# of Persons Seeking Treatment	218,766	18,108	503
Licensed Bed Days/Year Available	7,667,555	545,675	79,935
Licensed Bed Days Needed (assumes 70-day stay)	15,313,620	1,267,540	35,209
Bed Shortfall (Exceedance)	7,646,065	721,865	(44,726)

* 2002 National Survey on Drug Use and Health -- US DHHS

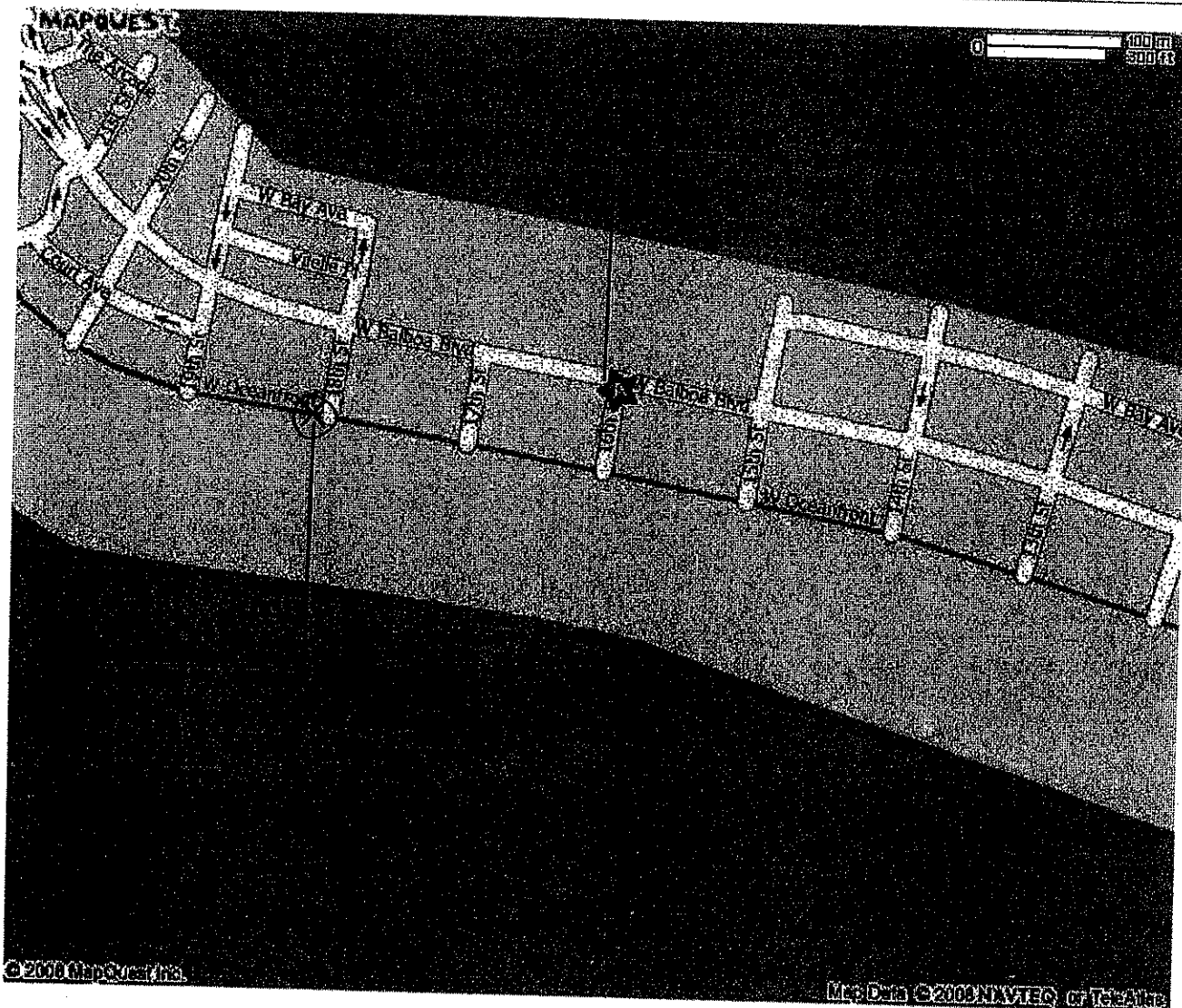
Exhibit 5

Location Map

MAPQUEST.



A: 1601 W Balboa Blvd, Newport Beach, CA 92663-4527



Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#)

Exhibit 6

Site Plan

Ocean Recovery

1601 West Balboa

Item #6 – Site Plan



1601 West Balboa Lot Characteristics:

- Lot Dimensions: 50' wide, 100' long
- Zoned Setbacks: 3' for side yards, 5' for front and back – see above for actual.
- Zoning: R-2 (Two-Family Residential)
- Land Use Designation – “RT” (Two-Unit Residential)
- Use: Group Residential, Licensed.

1605 West Balboa Lot Characteristics

- Lot Dimensions: 25' wide, 100' long
- Zoned Setbacks: 3' for side yards, 5' for front and back – see above for actual.
- Zoning: R-2 (Two-Family Residential)
- Land Use Designation – “RT” (Two-Unit Residential)
- Use = single housekeeping units/single family uses

RECEIVED BY
PLANNING DEPARTMENT

JAN 26 2009

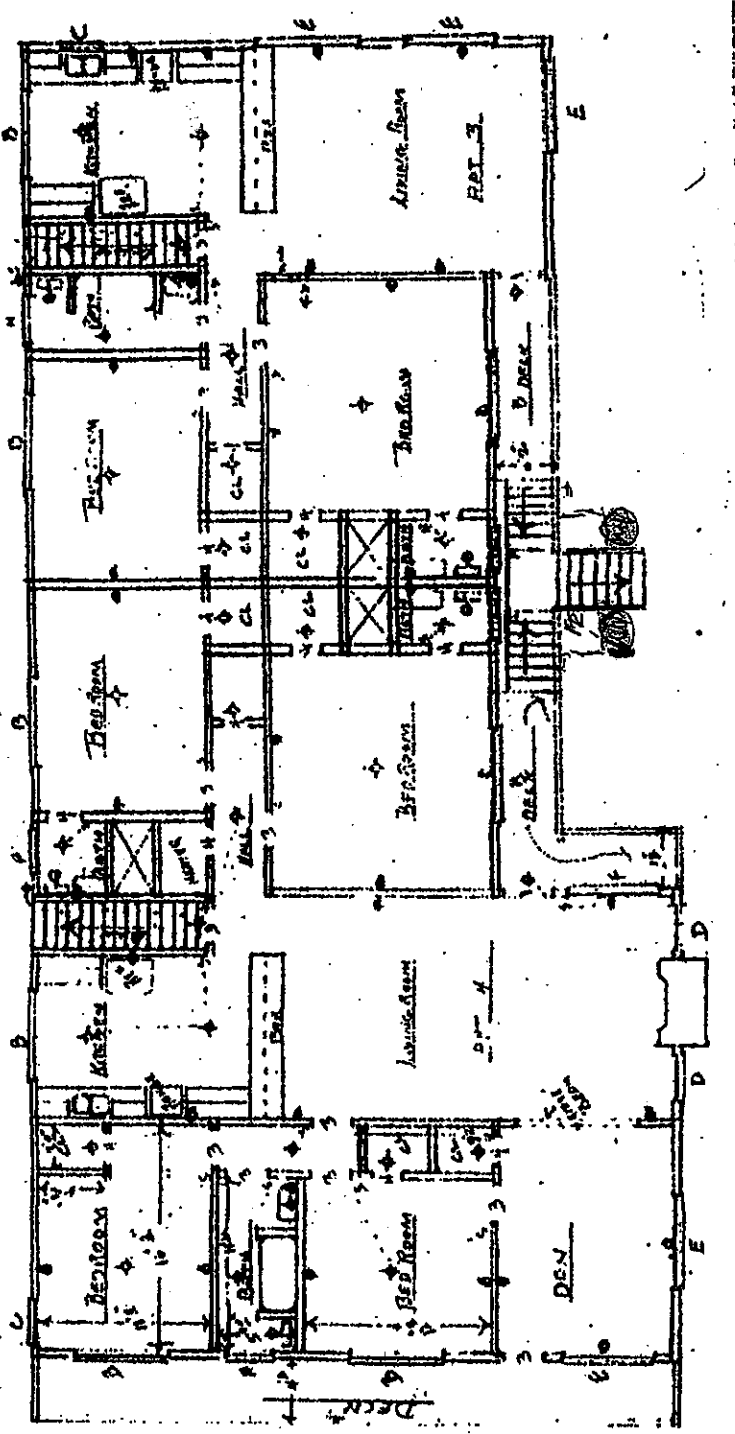
CITY OF PORT BEACH

Exhibit 7

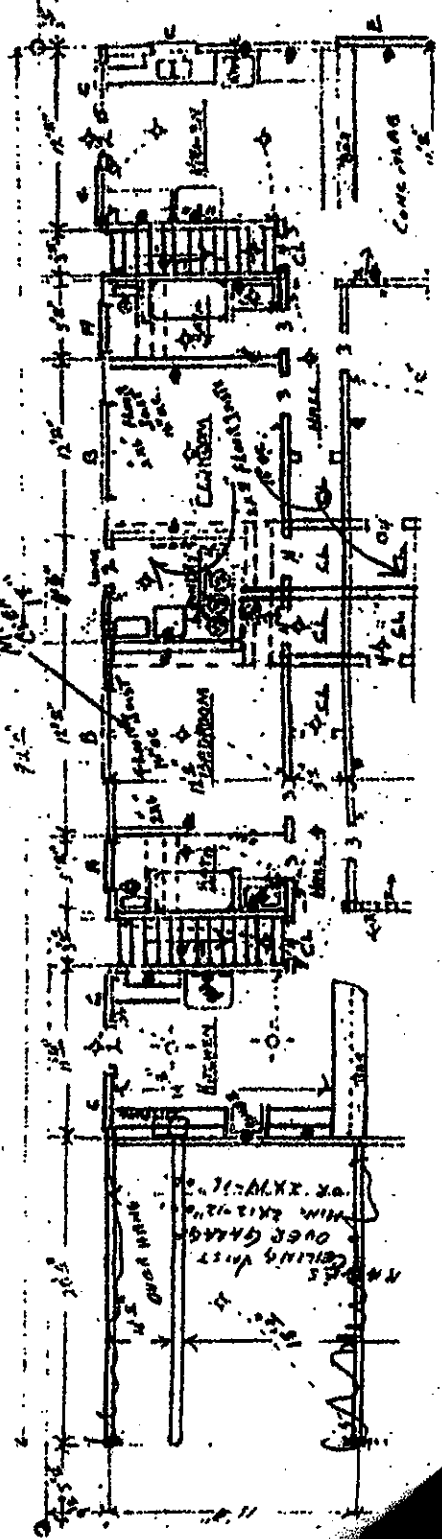
Building Diagram/Floor Plan(s)

OPC. (949) 723-2388
CELL. (949) 295-3388

Site Plan and
Floor Plan Page 2
2nd Floor



2ND FLOOR - PARTIAL SURVEY



BLIND

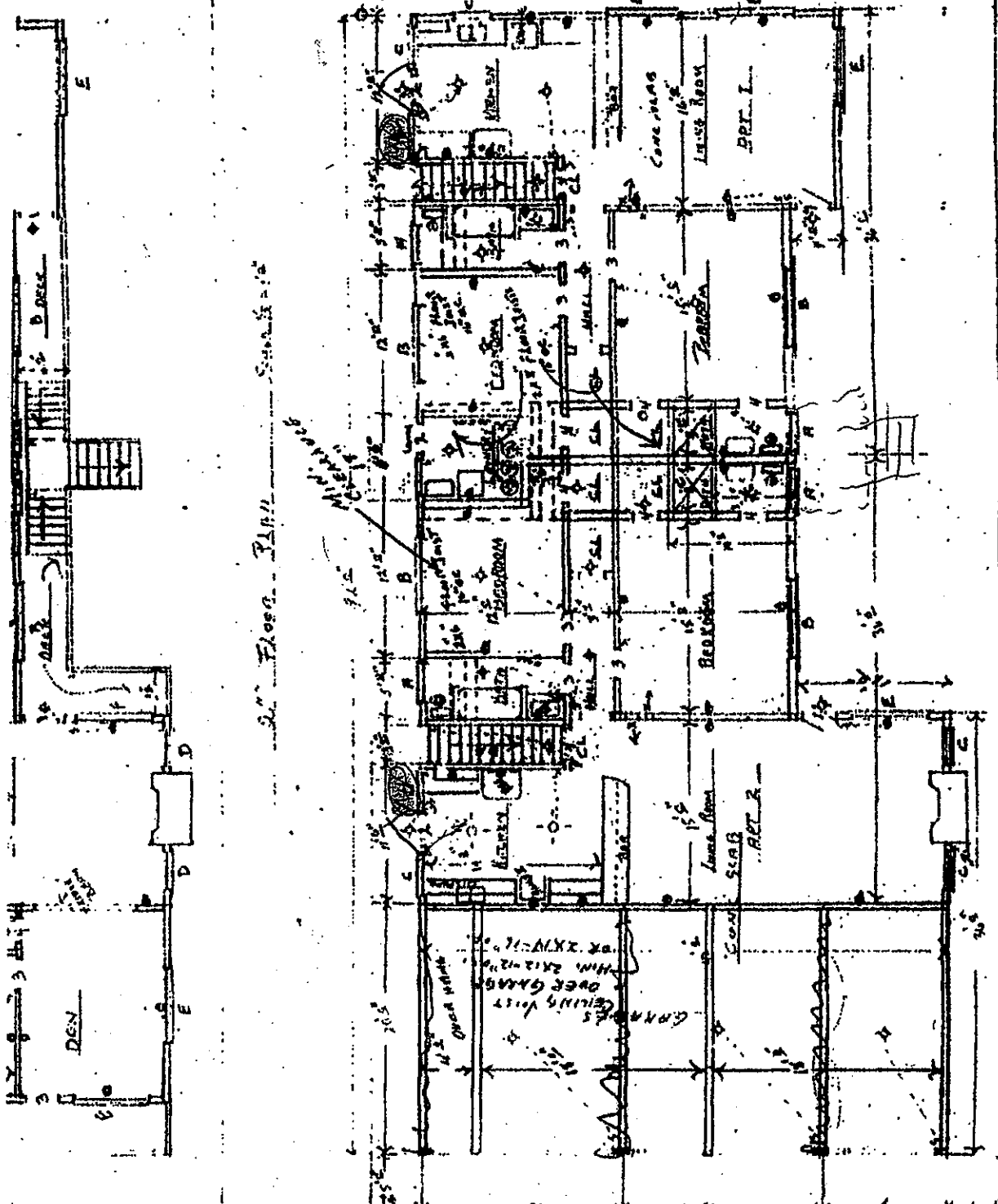
GA 110-295-3388 Area 100000

BA604

100 S. 1st Floor Plan 100

2

Site Plan and Floor Plan P182



1st Floor Plan

Scale 1/4" = 1'-0" 1/8" = 1'-0" 1/16" = 1'-0" 1/32" = 1'-0" 1/64" = 1'-0"

1st Floor Plan

100 S. 1st Floor Plan

Scale 1/4" = 1'-0"

Exhibit 8

Route Map

MAPQUEST.

TRANSPORTATION ROUTES

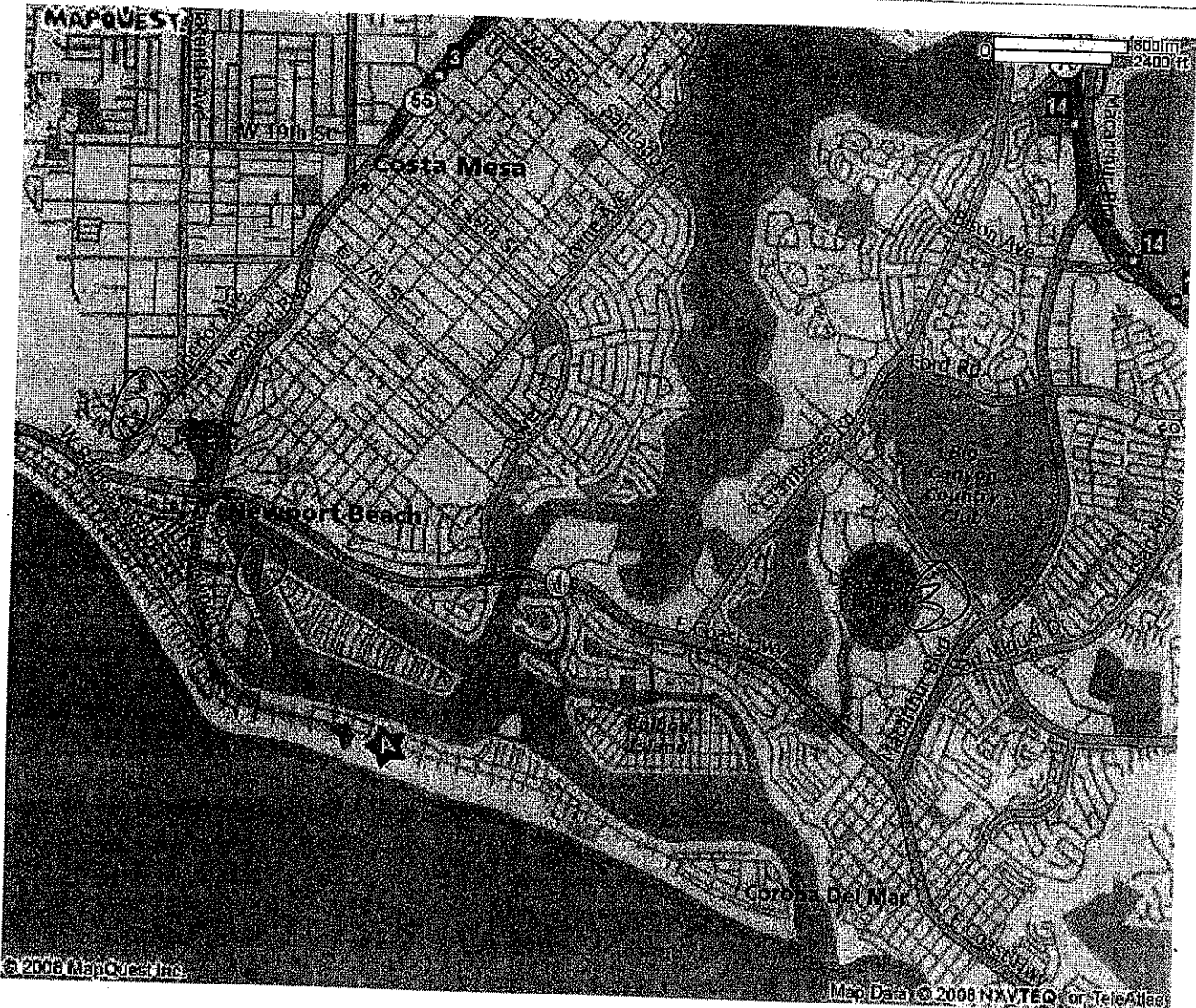
- | | | |
|-----------------------------------|---------|-----------|
| 1. Newport Alamo Club | D 6pm | R 9:30 AM |
| 2. Hoag Hospital | 6pm | 9:30 pm |
| 3. 24-Hour Fitness Fashion Island | 8:30 AM | 10:30 AM |

D = DEPARTURE

R = RETURN



A: ¹⁶⁰¹ ~~1115~~ W Balboa Blvd, Newport Beach, CA 92661-1037



Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#)

Exhibit 9

Facility Staffing Data (Form 400)

City of Newport Beach
GROUP RESIDENTIAL USES – USE PERMIT APPLICATION
FACILITY STAFFING DATA
 (Form 400 – February 2008)

Use this form to identify all staff of the facility/program. Designate volunteers by placing a "V" after their name.

Employee Name and Title	Date Employed	Total Time of Recovery Program Experience	Total Hours Per Month Scheduled	Date of Last CPR Training	Date of Last First Aid Training
Kathy Tunney	2/1/03	25 Years	160	10/06	10/06
Kevin Cullen	2/3/03	8 Years	160	9/07	9/07
Grace Murphy	2/1/03	35 Years	32	R.N.	R.N.
Nikolina Janssen	2/23/04	22 Years	160	1/08	1/08
Sinead Flanigan	4/20/06	10 Years	100	1/08	1/08
Karen Knab	4/16/07	8 Years	140	5/08	3/06
Ryan Thompson	6/26/05	3 Years	40	10/06	10/06
Kathleen Ferguson	7/12/07	7 Years	160	5/08	5/08
Peg Tilford	3/1/08	20 Years	40	5/08	5/08
Kim Ewing	3/1/05	5 Years	64	11/07	11/07

Exhibit 10

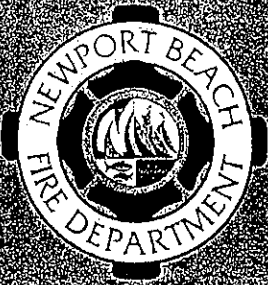
Weekly Activities Schedule (Form 500)

Ocean Recovery Women
Daily Schedule

Time	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
7:45	Goal Group	Goal Group	Goal Group	Goal Group	Goal Group	Goal Group	Goal Group
8:00	Chores & Meds	Chores & Meds	Chores & Meds	Chores & Meds	Chores & Meds	Chores & Meds	Chores & Meds
8:30	Gym	Gym	Gym	Gym	Gym		
9:00			Individual Meetings with Grace or Sinead	Individual Meetings with Sinead or Sherry	Individual Meetings with Sinead		
9:30							
10:00							
10:30	Process Group	Process Group	Process Group	Process Group	Process Group	Process Group	
11:00							
11:30							
12:00							
12:30							
1:00							
1:30	Process Group	Mental Arts	Staff Meeting	Mental Arts	Process Group		
2:00							
2:30							
3:00							
3:30							
4:00							
4:30							
5:00							
5:30							
6:00							
6:30			Alumni Dinner				
7:00			In House Meeting				
7:30							
8:00							
8:30							
9:00							
9:30							
10:00	*Curfew	*Curfew	*Curfew	*Curfew	*Curfew	*Curfew	*Curfew
10:30							
11:00							
11:30							
12:00							

Exhibit 11

Approved Fire Clearance from the Newport Beach Fire Marshal



NEWPORT BEACH FIRE DEPARTMENT

FIRE PREVENTION DIVISION

December 20, 2002

Department of Alcohol and Drug Programs
Licensing and Certification Branch
1700 K Street
Sacramento, CA 95814-4037

Subject: **Fire Clearance**
1601 W. Balboa Blvd.
Newport Beach, CA 92661

Solutions By The Sea was inspected on December 19, 2002, for compliance with local requirements and is hereby granted a fire clearance to operate an outpatient alcohol and/or other drug treatment program at the above subject address.

Please call (949) 644-3106 if you have any questions or require further assistance. Thank you.

Sincerely,

Nadine Morris

Nadine Morris
Fire Inspector

CFIRS # 30055

Exhibit 12

Copy of ADP Licensure Application

State of California

Department of Alcohol and Drug Programs

License

In accordance with applicable provisions of the Health and Safety Code of California and its rules and regulations, the Department of Alcohol and Drug Programs hereby licenses:

OCEAN RECOVERY, L.L.C.

to operate and maintain an adult residential alcohol and/or drug abuse recovery or treatment facility using the following name and location:

**SOLUTIONS BY THE SEA
1601 WEST BALBOA BOULEVARD
NEWPORT BEACH, CALIFORNIA 92663**

This license extends to the following services:

**INDIVIDUAL SESSIONS; RECOVERY OR TREATMENT PLANNING;
GROUP SESSIONS; AND EDUCATIONAL SESSIONS**

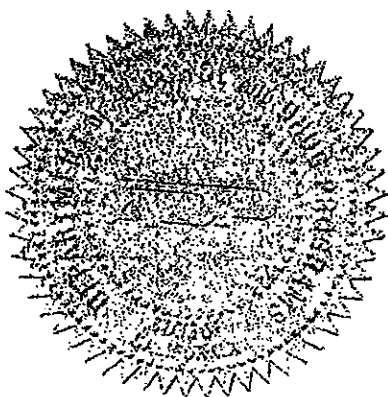
Limitations or conditions are listed as follows:

Treatment/Recovery Capacity: 16
Total Occupancy for Unit A is limited to: 4
Total Occupancy for Unit B is limited to: 4
Total Occupancy for Unit C is limited to: 4
Total Occupancy for Unit D is limited to: 4

FEMALES ONLY

License Number:
300144AP

Effective Date: 01/01/2009
Expiration Date: 12/31/2010



Ann MacSwell

Authorized Representative

Complaints regarding services provided in this facility should be directed to:
Complaint Coordinator, Program Compliance Branch
1700 K Street, Sacramento, California 95811-4037
(916) 322-2911 FAX: (916) 324-4505 E-mail: LCBcomp@adp.state.ca.us

Post in a prominent location. This License is not transferable.

Exhibit 13

Revised Pages 14 and 16 of Form 100 submitted January 29, 2009

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

D. Has the applicant ever voluntarily surrendered, had a denial, suspension or revocation of a certification by any public or private agency other than ADP or the California Department of Social Services-Community Care Licensing for a group residential use in this community or another community?

Yes No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

8. **NATURE AND CHARACTERISTICS OF PROPOSED USE**

Per NBMC §20.91A.030(A-D), please provide the following information about each proposed facility (attach additional sheets if necessary). The components of this Section 8 (and other sections) comprise the *Operations and Management Plan* and *Rules of Conduct* envisioned by NBMC §20.91A.050.B:

A. **TYPE OF ALCOHOL AND/OR OTHER DRUG RECOVERY OR TREATMENT SERVICES PROVIDED** (for ADP-licensed facilities only -- check all that apply):

Non-Medical Detoxification

Group Sessions

One-on-One Sessions

Educational Sessions

Recovery or Treatment Planning

Other: _____

B. **NUMBERS AND TYPES OF FACILITY USERS & STAFF:**

TOTAL OCCUPANCY OF FACILITY (This is the maximum number of individuals who live at the facility and are approved by the fire safety inspector. These individuals include the residents receiving recovery, treatment or detoxification services, children of the residents, and staff. Staff includes individuals who work for the applicant in exchange for either monetary or in-kind compensation (e.g., room and board). Total occupancy cannot be exceeded for any reason. 16)

MAXIMUM REQUESTED ADULT RESIDENT CAPACITY OF THE FACILITY (The number of adult residents that receive recovery, treatment or detoxification services at any one time, which cannot be greater than the total occupancy shown above): 16

MAXIMUM NUMBER AND AGE RANGE OF DEPENDENT CHILDREN WHO ARE SUPERVISED BY THEIR PARENT(S) IN THE FACILITY. This includes temporary residing (i.e., overnight, weekend visits) of dependent children. (Since there must always be at least one adult being served, the maximum number of dependent children housed must be at least one less than the total occupancy, determined by the fire inspector, as shown above): 0

Are all clients who reside on-site disabled persons? _____

24/7 Other (please describe) _____

Will there be a curfew? If so, please note quiet hours:

10 p.m. – 8 a.m. Other (please describe) 10:00 pm - 7:30 Am Weekdays
12:00 pm - 8:00 Am Weekends

Besides household activities, what types of care-related activities will occur on-site, and how many residents and non-residents (including staff and clients from other facilities) will attend?

"AA"-type meetings _____ Physical Fitness (gym, yoga, etc) _____
 ADP-Treatment (see 5A) 16 Other wellness (massage, etc) _____
 Meal preparation/delivery _____ Other: Tai Chi, Kung Fu

Provide the Weekly Schedule of Services shown as Form 500 to this Application.

G. DELIVERY INFORMATION:

What types of deliveries will occur at the facility and how often (per day or per week – circle whichever is applicable) will they occur?

Laundry Services: _____ /day or week Trash disposal or recycling: _____ /day or week
Monday's in winter, Saturdays in summer
 Meals: _____ /day or week Business products: _____ /day or week
 Correspondence, packages (other than USPS): _____ /day or week
 Medical Products/Medical Waste Pickup: _____ /day or week
 Other: Bottled water _____ 1 /day or week

H. TRANSPORTATION AND PARKING:

Will clients residing on-site be allowed to use personal vehicles and/or keep them on-site or nearby?

Yes No

If Yes, describe where clients will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

If No, describe other modes of transportation that clients will use (bus, other transit, bicycle, other).

Bus (CoCTD), bicycle, van (the facility has a 12-passenger van.)

Please provide a Route Map showing transit and travel routes that will be used to transport clients off-site, showing destinations of travel and approximate times of departure and return.

Will staff serving the facility be allowed to drive personal vehicles to the site?