

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

RECEIVED BY
PLANNING DEPARTMENT

NOV 25 2008

IDENTIFYING INFORMATION

NAME JOHN A FELTON CITY OF NEWPORT BEACH

TITLE CLINICAL DIRECTOR TELEPHONE NUMBER AT WHICH OPERATOR MAY BE CONTACTED ALL TIMES (NEMC \$20.91A.050.8) (949) 673-3077

ADDRESS _____

OTHER NAME(S) USED BY ADMINISTRATOR/DIRECTOR JOHN FELTON

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
		SEMESTER UNITS	QUARTER UNITS		
CALIFORNIA POSTAL INSTITUTE	Management Theory			MA	1976
LOGOS Bible College	Biblical Studies			BA	1988

MANAGEMENT EXPERIENCE

Type	Title	Date Started	Date Ended	Reason for Leaving
Health Care	Clinical Director	1/84	—	
"	Therapist	12/80	—	

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

Type	Period Held	Issuing Agency
Marriage & Family Therapy	1990 to Present	Board of Behavioral Science

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 12/81 TO 3/82	NEW HOPE CONCEPTS 3140 REDHILL # 30	INDIVIDUAL & GROUP MARITAL THERAPY, FAMILY THERAPY, CLINICAL ASSESSMENTS, TREATMENT PLANS, DISCHARGE SUMMARIES & OVER ALL MANAGEMENT OF THERAPY UNIT	
FROM 10/81 TO 6/82	NEWPORT CONCEPTS 1500 W. BALBOA BLVD	SUPERVISE CASE LOAD, LIC + CERTIFIED EMPLOYEES, INDIVIDUAL, GROUP, FAMILY THERAPY, DISCHARGE TREATMENT PLANS, DISCHARGE SUMMARIES AND OVER ALL MANAGEMENT OF THERAPY UNIT	
FROM 2/92 TO 6/93	CASO Recovery Center 5757 CH	CEO - FOUNDED FOR RECOVERY TREATMENT FOR ADDICTION AND CLINICAL & ADMINISTRATIVE DUTIES	SOLD FACILITY
6/93	CM, CA 52126		

Signed

John A. Felton
John A. Felton

Date

11/11/08
11/11/08

#957

NCR 00060

City of Newport Beach
GROUP RESIDENTIAL USES - USE PERMIT APPLICATION
ADMINISTRATIVE ORGANIZATION -
PARTNERSHIPS, SOLE PROPRIETOR, AND OTHER ASSOCIATIONS
(Form 200P - February 2008)

PARTNERSHIPS

1. Attach a copy of the partnership agreement *See Attached*

2. Partners

	Type of Partnership	Name	Business Address, City and Zip Code
1st Partner	☒ General ☐ Limited		
2nd Partner	☐ General ☐ Limited		
3rd Partner	☐ General ☐ Limited		
4th Partner	☐ General ☐ Limited		

Contact Person *Shannon Armwood* Title *Office Manager* Telephone # *(949) 673-3097*

SOLE PROPRIETOR/OTHER ASSOCIATIONS

Sole Proprietors/other associations must also provide a list of all person(s) legally responsible for the organization, the contact person, and appropriate legal documents (fictitious name statement, business license) which set forth legal responsibility of the organization and accountability for opening the program. Use the following space or attach a separate sheet.

#10

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CITY OF NEWPORT BEACH

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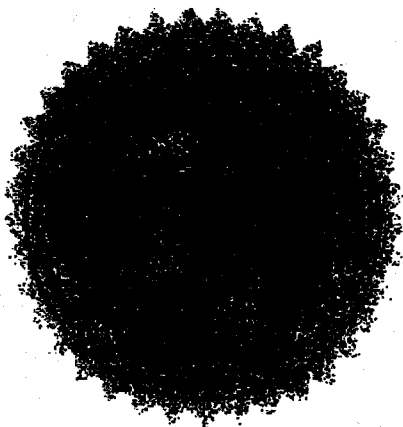
SECRETARY OF STATE

I, *Kevin Shelley*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

DEC - 3 2003



Kevin Shelley

Secretary of State

NCR 00062

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State of California
Secretary of State
Kevin Shelley

200882900006

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 24 2003

KEVIN SHELLEY
Secretary of State

CERTIFICATE OF LIMITED PARTNERSHIP

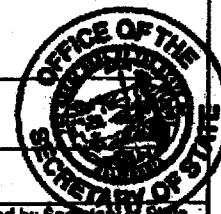
A \$70.00 filing fee must accompany this form.
IMPORTANT - Read instructions before completing this form

This Space For Filing Use Only

1. Name of the limited partnership (and the name with the words "Limited Partnership" or the abbreviation "L.P.") Newport Coast Recovery, L.P.			
2. Street address of principal executive office 2227 Francisco Drive		City and state Newport Beach, CA	Zip code 92660
3. Street address of California office where records are kept 2227 Francisco Drive		City Newport Beach	State Zip code CA 92660
4. Complete if limited partnership was formed prior to July 1, 1984 and is in existence on the date this certificate is executed. The original limited partnership certificate was recorded on _____ with the recorder of _____ county. File or recordation number _____			
5. Name the agent for service of process and check the appropriate provision below: Albert Pizzo _____, which is ☒ an individual residing in California. Proceed to item 6. ☐ a corporation which has filed a certificate pursuant to section 1505. Proceed to item 7.			
6. If an individual, complete the California address of the agent for service of process: Address: 2227 Francisco Drive City: Newport Beach State: CA Zip code: 92660			
7. Names and addresses of all general partners: (Attach additional pages, if necessary) A. Name: Calm Pacific Seas, LLC Address: 2227 Francisco Drive City: Newport Beach State: CA Zip code: 92660 B. Name: _____ Address: _____ City: _____			
8. Indicate the number of general partners' signatures required for filing certificates of amendment, restatement, merger, dissolution, continuation and cancellation. One			
9. Other matters to be included in this certificate may be set forth on separate attached pages and are made a part of this certificate. Other matters may include the purpose of business of the limited partnership (e.g., "Gambling Enterprise").			
10. I declare that I am the person who executed this instrument, which execution is my act and deed. Calm Pacific Seas, LLC or: <u>Albert Pizzo</u> <u>Manager</u> Signature of Authorized Person Position or Title of Authorized Person November 21, 2003 Date Type or Print Name of Authorized Person Signature of Authorized Person President of General Partner Type or Print Name of Authorized Person Position or Title of Authorized Person Date			

LP-1 (REV. 07/2003)

Approved by Secretary of State



NCR 00063

City of Newport Beach
GROUP RESIDENTIAL USES - USE PERMIT APPLICATION
FACILITY STAFFING DATA
(Form 400 - February 2006)

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
Colby Christoferson night manager	9/1/08	2 yrs.	160	02/02/08	02/01/2010
Rory Talmor cust manager	6/19/07	4 yrs.	160	06/4/2008	06/04/2009
Gick Wilcox Program Director	6/1/05	7 yrs.	160	06/4/2008	06/04/2009
Silva Vargas therapist	1/3/07	6 yrs.	64	06/04/2008	06/04/2009
William Viera night manager	12/29/03	5 yrs	160	06/04/2008	06/04/2009
Jack Felton Clinical Director	10/13/04	20 yrs.	80	pending	pending
Oswald Krumm night staff	06/18/08	3 yrs.	120	pending	pending

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NCR 00064

City of Newport Beach
 GROUP RESIDENTIAL USES - USE PERMIT APPLICATION
 WEEKLY ACTIVITIES SCHEDULE
 (Form 500 - February 2008)

WEEKLY SCHEDULE OF SERVICES

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Time	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
6-7 a.m.	See Attatched						
7-8 a.m.							
8-9 a.m.							
9-10 a.m.							
10-11 a.m.							
11 a.m.-12							
12-1 p.m.							
1-2 p.m.							
2-3 p.m.							
3-4 p.m.							
4-5 p.m.							
5-6 p.m.							
6-7 p.m.							
7-8 p.m.							

TOTAL HOURS PER WEEK OF INDIVIDUAL/GROUP/EDUCATION SESSIONS, RECOVERY OR TREATMENT
 PLANNING, AND DETOXIFICATION SERVICES (IF PROVIDED): 90

Comments:

City of Newport Beach
 GROUP RESIDENTIAL USES - USE PERMIT APPLICATION

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 NCR 00065

Newport Coast Recovery Weekly Treatment Schedule

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
8:00 AM							
8:30 AM							
9:00 AM	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
9:30 AM							
10:00 AM							
10:30 AM							
11:00 AM							
11:30 AM							
12:00 PM	Lunch	Lunch	Lunch	Lunch	Lunch	Lunch	
12:30 PM							
1:00 PM							
1:30 PM							Grocery Store
2:00 PM							
2:30 PM							
3:00 PM							
3:30 PM							
4:00 PM							
4:30 PM							
5:00 PM							
5:30 PM	Dinner	Dinner	Dinner	Dinner	Bar-B-Q	Dinner	Dinner
6:00 PM							
6:30 PM	6:45 p.m. Meeting Newport Beach Phase 1 Mandatory Phase 2 meeting of choice	Men's Meeting Newport Club Phase one Mandatory Phase 2 meeting of choice				7:30 NC or 8:30pm Hoag AA meeting Phase one Mandatory phase 2 meeting of choice	7:30 PM Meeting Phase one Mandatory
7:00 PM							
7:30 PM							
8:00 PM							
8:30 PM							
9:00 PM							
9:30 PM							
10:00 PM							
10:30 PM							
11:00 PM							
11:30 PM	Lights out	Lights out	Lights out	Lights out	Lights out	Lights out	Lights out
12:00 AM							

Schedule Subject to Changes or Modification as Necessary Without Prior Notification
Effective 07/03/2008 Program Director

IN HOUSE MEETINGS
OFFSITE MEETINGS IN GREEN

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NEWPORT BEACH

NCR 00066



#15

November 25, 2008

City of Newport Beach
Planning Department

RE: 1216 W. Balboa Blvd.
Newport Beach, CA 92663

To Whom It May Concern:

Newport Coast Recovery only has one facility located at 1216 W. Balboa Boulevard, Newport Beach, CA 92661.

Sincerely,


Shannon Armand
Office Manager

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NOV 25 2008

CITY OF NEWPORT BEACH

~~~~~  
Newport Coast Recovery, L.P.  
1216 W. Balboa Boulevard, Newport Beach, California 92661 • 1.800.990.9691

[www.newportcoastrecovery.org](http://www.newportcoastrecovery.org)

NCR 00067

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***Exhibit No. 6***  
***Correspondence from the Newport***  
***Beach Fire Marshal***

NCR 00068

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**NCR 00069**

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STEVE LEWIS, FIRE CHIEF

January 29, 2008

Mr. Michael Newman, Executive Director  
Newport Coast Recovery  
1216 West Balboa  
Newport Beach, California 92661

RE: Fire and Life Safety Clearance

Dear Mr. Newman:

Recently, the office of the California State Fire Marshal issued a code interpretation that may impact the use of 1216 West Balboa as a group home for more than 6 people. The interpretation clarifies an interpretation that was issued by the State Fire Marshal in June of 2002 (SFM # 02-014). Both interpretations are attached.

The State Fire Marshal's interpretation states that a group home use by more than 6 residents required compliance with construction requirements for the former Building Code "Group R1", which included apartment buildings and hotels. For Group R1 occupancies, openings in exterior walls within five feet (5') of the property line were prohibited. It is my estimation that two (2) of the exterior walls at 1216 West Balboa are approximately three feet (3') from the property line (on the east and west sides of the building).

We are uncertain at this time if the State Fire Marshal's interpretation, which applied when your group home occupancy use at 1216 West Balboa commenced and during much of the period when you operated that occupancy at that address, will affect your continued operation. We have discussed this matter with our City Attorney and with others, and advise you that, at a minimum, it has caused us to re-evaluate City actions relating to the existing use.

Notwithstanding that, the current California Building Code, which took effect in Newport Beach on January 1<sup>st</sup>, 2008, contains new provisions for the group home use which may allow you to have an operation that complies with current codes. It also contains several newly adopted regulations for group homes with more than 6 residents.

Because the California Department of Alcohol and Drug Programs (ADP) requires you to seek "Fire Clearance" from me as Newport Beach's Fire Marshal, I may be unable to do so without having a comprehensive code analysis by a qualified architect in-hand as I complete my review of each situation. As such, I strongly encourage you to seek this comprehensive code analysis by a qualified architect prior to your next licensing renewal.

SAFETY ♦ SERVICE ♦ PROFESSIONALISM

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NCR 00070

A comprehensive code analysis will reveal any areas in which your facility may be out of compliance with the new regulations. The completed analysis should be submitted to my office at the Newport Beach Fire Department prior to your next licensing renewal.

Please call me if you have any questions about this matter or if I may be of any further assistance.

Sincerely,

*Steve Bunting*

Steve Bunting  
Fire Marshal

Attachments

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NCR 00071



NEWPORT BEACH FIRE DEPARTMENT  
P.O. Box 1750, 3300 Newport Blvd., Newport Beach, CA 92660-8915

STEVE LEWIS, FIRE CHIEF

June 6, 2008

Newport Coast Recovery  
1216 West Balboa Blvd  
Newport Beach, CA 92661

RE: Fire and Life Safety Clearance

Dear Mr. Swiney:

Earlier this year, I sent you a letter advising you of a recent code interpretation by the State Fire Marshal and briefly explained how the interpretation might affect group residential facilities with more than 6 clients *in one building*. The interpretation does not consider whether the single building houses two or more dwelling units housing 6 or fewer clients in each dwelling unit – indeed, like a fire might, it considers only the fact that more than 6 clients reside in one structure.

At the conclusion of the letter, I asked you to provide me with a comprehensive code analysis for each of the facilities you own or manage by a qualified architect prior to my office's inspection and anticipated issuance of "fire clearance" for license renewal or Use Permit purposes.

To date, I have not received an analysis for your facilities. Please be advised that I will need to review your code analysis and a plan for corrections, if necessary, prior to the issuance of the "Fire Clearance" that is a part of your Use Permit application and part of your ADP application (if you are seeking a new or extended ADP license).

The analysis should examine the impact of the State Fire Marshal's interpretations and all newly adopted regulations for group homes with more than 6 clients in a building. The completed analysis should be submitted to my office at the Newport Beach Fire Department as soon as possible.

In order to assist you and your architect with the code analysis, we have posted a list of applicable Building and Fire Code provisions relative to the Group R4 Occupancy Classification (*Group homes, licensed or unlicensed, providing treatment and/or recovery for more than 6 clients in a building*) on our web page:

[www.city.newport-beach.ca.us/FMD/default.htm](http://www.city.newport-beach.ca.us/FMD/default.htm)

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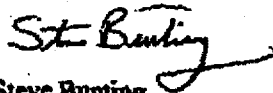
SAFETY ♦ SERVICE ♦ PROFESSIONALISM

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NCR 00072

The list may not include every provision applicable to your situation which is why we encourage you to obtain the assistance of a qualified architect.

Please call me if you have any questions about this matter or if I may be of any further assistance. I look forward to working with you in our continuing effort to protect the life and safety of the residents of our community.

Sincerely,



Steve Bunting  
Fire Marshal

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NCR 00073



## California State Fire Marshal CODE INTERPRETATION

|                 |                                                                                            |                |        |
|-----------------|--------------------------------------------------------------------------------------------|----------------|--------|
| Date Issued     | 1/22/06                                                                                    | Interpretation | 07-144 |
| Topic           | Group R, Div 6.2 Location On Property                                                      |                |        |
| Code Section(s) | 2001 CBC Section 317A and Table 5A                                                         |                |        |
| Requested by    | Steve Bunting<br>Newport Beach Fire Department<br>(949) 365-0090 Cell<br>SBunting@NBFD.net |                |        |

Do the exterior wall and opening protection requirements in Table 5A for the Group R, Division 1 occupancy group apply to Group R, Division 6.2 occupancies?

Yes, when the exterior wall is located 3 or more feet from the property line.

Does Section 317A allow the exterior wall of a Group R, Division 6.2 which is located 3 feet or more from the property line to be non-rated and have openings?

2001 CBC Section 317A does not apply to exterior walls of a Group R 6.2 located 3 feet or more from the property line.

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NCR 00074



## California State Fire Marshal CODE INTERPRETATION

|                 |                                                                                                                      |                  |        |
|-----------------|----------------------------------------------------------------------------------------------------------------------|------------------|--------|
| Date Issued     | 06-17-02                                                                                                             | Interpretation # | 02-014 |
| Topic           | Location of Property R-6 Occupancies                                                                                 |                  |        |
| Code Section(s) | §317A, California Building Code (1998)                                                                               |                  |        |
| Requested by    | Robert Bohman, Deputy Fire Marshal<br>Alameda County Fire Department<br>2241 Redwood Road<br>Castro Valley, CA 94546 |                  |        |

*Is it the intent of CBC Section 317A to allow setback from the property line of only three feet for a Group R, Division 6.2 occupancy if the building is designed with a non-rated exterior wall and unprotected openings even when the occupancy load is greater than ten?*

No. Section 316A states that a Group R, Division 6.2 occupancy shall not exceed the type of construction as specified for occupancies classified Group R Division 1 occupancy.

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NCR 00075

***Exhibit No. 7***  
***Resident Correspondence***

73  
**NCR 00076**

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Dear Mr. Kiff,

My name is Paul Lopez and I am writing to make note of my concerns regarding group residential homes in my neighborhood. I own and reside at 1125 1/2 W. Balboa Blvd., Newport Beach, CA 92661. I have lived here for over 8 years, and my immediate neighborhood has become densely populated with group residential/sober living homes. As a matter of fact, I am sandwiched on both sides of my home by two such residences at 1115 W. Balboa Blvd. and 1129 W. Balboa Blvd. Living in such close proximity, I have first hand evidence that these type of businesses, their clients, and visitors have adversely affected our living environment.

In reviewing the application for 1132 W. Balboa Blvd., I note that the city's environmental impact analysis states that there will be "no negative neighborhood/environmental impact" created by granting the requested permit. This conclusion irritates me to no end, as it is obviously the findings of someone who has not lived through the nightmare that we have experienced over the last five years. Despite trying to deal with the adverse effects of these businesses, and after many calls complaining to the site managers of smoke, swearing, noise, littering etc., very little has changed. I am a homeowner on the peninsula, a tax paying citizen and I am shocked that business at City Hall continues as usual as it relates to these group homes.

I am traveling on business next week and I will not be able to attend the public hearing. Therefore, please take the below feedback as my formal input on the permit hearing for both 1132 W. Balboa Blvd. on December 4th and the upcoming hearing for 1216 W. Balboa Blvd. on December 8th, both within 200 feet of my residence. Here are my issues:

**Density:**

I note that the existing permit process advocates that these facilities should not be within 1000 feet of each other and only one such facility should be located within a Newport Beach city block. I have four (4) such facilities within 1000 feet of my residence and three (3) of these are within my city block. The close proximity of these facilities, with their clients and visitors, has negatively changed the landscape of my neighborhood. Noise, smoking, parking, swearing, and police visits have all negatively impacted my quality of life here on the peninsula. The properties at 1132 and 1216 W. Balboa Blvd. have the same density-related issues as the other two facilities. The permitting of these facilities does have a negative environmental impact to my neighborhood and my residence.

How can the city provide a permit to these two facilities that are within a few hundred feet of each other, and within yet another few hundred feet of two additional sober living facilities? This is simply not in compliance with the permitting process as I understand it and is downright unfair.

**Proximity to Newport Elementary School:**

I also note that the existing permit process advocates that no facility be within 1000 feet of a school. The clients of these facilities have demonstrated that they are not model citizens, most with some form of drug offense and others with criminal records. Why would the city permit such a facility within a few hundred feet of the school? An approved permit would put these children at increased risk of harm. This is frankly insensitive to the families that have entrusted the City of Newport Beach to protect their children.

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NCR 00078

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#### **Parking:**

The group residential homes in question use their garages as group meeting locations, group entertainment, and/or offices. These garages have been adjusted to facilitate this type of group use and not parking. Therefore, all clients with cars—this means most clients—are parking on W. Balboa Blvd., creating an even more difficult parking situation for other residents. As you know, the limited parking available on the peninsula has always been an issue. These two group residential homes have worsened an already bad situation. Additionally, many guests and frequent business delivery vendors illegally park in front of other residents' garages and parking spaces. These facilities are using their available garage parking for other business purposes. This practice has a negative environmental impact on my residence and neighborhood.

#### **Second-Hand Smoke:**

I have reviewed the application process for both of these facilities and have noted the following stipulation:

NBMC §20.91A.050.A directs that "no staff, clients, guests, or any other users 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."

This is an interesting requirement, and I understand that each facility applying for a permit must sign and acknowledge this requirement. How does the City propose that these group residences comply? It is my first hand experience that most, if not all, clients and employees smoke. Per their own house guidelines, they are not allowed to smoke inside their units. Therefore, there is always a group of people outside smoking at each of these facilities as well as at the two facilities that surround me. I suggest that you have your environmental impact group visit our location and comment on the fact that we have a continuous flow of second-hand smoke. If someone is smoking outside, there is no way that they can keep the smoke on their property. Therefore, they are putting me and my family at risk of cancer, emphysema, asthma and other negative effects of second-hand smoke. I cannot open the windows of my home without smelling cigarette smoke. I attempted to install central air conditioning to minimize this negative environmental impact, but I was told by the city that I could not put an air conditioning unit on my roof or down in my side yard due to city zoning requirements. This is not fair, not right and most importantly, it is putting my family's health at risk. I believe it is the City's responsibility to protect my residence and family against dangerous second hand smoke.

#### **Other Issues:**

The clients of these facilities for the most part are not what one would consider responsible neighbors. They are generally loud, foul-mouthed, combative, and oblivious to social courtesies. Some site managers do a better job than others in managing their clients to comply with the required standards, but in general, these residents are intimidating and disrespectful. Our neighborhood has changed for the worse due to these businesses, and I assume that most potential buyers would not elect to buy next to one of these houses, so we have also taken a hit on future selling values. This whole process has been frustrating and detrimental to my home ownership and quality of life here on the peninsula. Our residence and neighborhood have been and continue to be negatively impacted by these residential living facilities.

NCR 00079

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This is my input on the permit process for the residential facility permit application process. I urge the City to reject the permit approval for the facilities at 1132 and 1216 W. Balboa Blvd. for the reasons noted above.

I would appreciate if you would respond to a few other questions that I have related to the two other residential living facilities that are located on each side of my residence.

- 1) I did not receive a public hearing notification for the facility at 1216 W. Balboa Blvd. Since I live within 1000 feet of this facility, why was I not formally notified?
- 2) What is the status of the permit application for the facility located at 1115 W. Balboa Blvd.? Have they submitted an application, and is there going to be a public hearing?
- 3) Did the facility at 1129 Balboa Blvd. submit for a permit under this application process? What is the status? If not, what are the plans and timing to shut them down?

Mr. Kim, I appreciate your follow-up to this letter. I am a frustrated Newport Beach owner with two residential living facilities on each side of me and another two within several hundred feet. The density issues that these facilities create are unfair and detrimental to my rights as a property owner in Newport Beach. I look for the City to alleviate the current situation by minimizing the granting of permits in my neighborhood to ensure that these facilities are at least 1000 ft. apart and only one facility per city block.

Please confirm receipt of this email so I am ensured that it has become part of the permanent residential living permit record.

Sincerely,

Paul A. Lopez  
1125 1/2 W. Balboa Blvd.  
Newport Beach, CA 92661  
951-316-1992

NCR 00080 77

**GROUP RESIDENTIAL USE PERMIT HEARING (12/8/08):  
CORRESPONDENCE TO HEARING OFFICER**

**NCR 00081**

11287-0011\1127414v1.doc

**NCR UP/RA 00225**

**LAW OFFICES**  
**LABOWE, LABOWE & HOFFMAN, LLP**

RONALD E. LABOWE  
RICHARD W. LABOWE  
MARK S. HOFFMAN  
ERIN L. HANSKY  
A PROFESSIONAL CORPORATION

A LIMITED LIABILITY PARTNERSHIP OF AN INDIVIDUAL AND PROFESSIONAL CORPORATIONS  
1631 WEST BEVERLY BOULEVARD  
SECOND FLOOR  
LOS ANGELES, CALIFORNIA 90024-5744  
(213) 250-0800

MAILING ADDRESS  
POST OFFICE BOX 26428  
LOS ANGELES, CALIFORNIA 90024-0428  
FACSIMILE (213) 978-0448

IN REPLY, REFER TO:

December 3, 2008

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DEC 08 2008

**CITY OF NEWPORT BEACH**

Dave Kiff, Assistant City Manager  
Newport Beach Planning Department  
3300 Newport Blvd.  
Newport Beach, CA 92658-8915

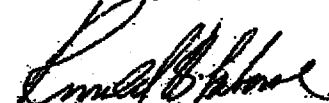
Re: Project File No. PA2008-103  
Activity No. UP2008-032

Dear Mr. Kiff:

My wife and I own the property at 1200 W. Bay Avenue, Newport Beach. We are opposed to additional alcohol and drug abuse safe houses being provided at 1216 W. Balboa Blvd. and 1132 W. Balboa Blvd. due to the proximity to the public school along Balboa Blvd. between 13<sup>th</sup> and 14<sup>th</sup> Streets, our home at 1200 W. Bay Avenue and additional property that we own at 1404 W. Oceanfront.

Very truly yours,

LABOWE, LABOWE & HOFFMAN, LLP

  
Ronald E. Labowe

RBL:dm

NCR 00082

**Brown, Janet**

---

**From:** Kiff, Dave  
**Sent:** Monday, December 08, 2008 8:58 AM  
**To:** 'Tom Allen'; Brown, Janet  
**Subject:** FW: Group Residential Use Permits up for review

FYI

---

**From:** Laurie McKenzie [mailto:mcktalk@mac.com]  
**Sent:** Monday, December 08, 2008 9:55 AM  
**To:** Kiff, Dave  
**Cc:** Henn, Michael  
**Subject:** Group Residential Use Permits up for review

Dear Dave,

Regarding the applications for group recovery homes on the Balboa Peninsula, specifically those in the 1100 and 1200 blocks of West Balboa Blvd.:

As 32 year residents of Newport Beach, specifically the Balboa Peninsula at 11th and 12th Streets, we would like to voice our concerns.

1. The over-concentration of these homes in this residential area will continue to hurt our home values and it changes the neighborhood feel.
2. These 'recovery homes' are for profit businesses. They add a burden on the city's trash services, traffic, security, parking, as well as added noise and air pollution.
3. The homes in this area under review have more than 6 beds and need to be strictly regulated.
4. A vast number of these group homes are owned and operated by a handful of for profit businesses. These businesses need to be regulated by density of their facilities within a given area to avoid over-concentration.

We urge the City of Newport Beach to continue its efforts in making this City one of the finest in the country. We hope that you put the citizens and local taxpayers interests and needs at the forefront, as you review and regulate these Residential Care Facilities so that their density and proliferation will not negatively affect this wonderful beach community.

Sincerely,

Terry and Laurie McKenzie  
1151 W. Balboa Blvd.  
Balboa Peninsula, CA 92661  
949-673-2379

**Brown, Janet**

---

**From:** Kiff, Dave  
**Sent:** Monday, December 08, 2008 9:40 AM  
**To:** 'Tom Allen'; Brown, Janet  
**Subject:** FW: 1216 W.Balboa Blvd.

For the record

---

**From:** breasy@aol.com [mailto:breasy@aol.com]  
**Sent:** Sunday, December 07, 2008 10:33 PM  
**To:** Kiff, Dave  
**Subject:** 1216 W.Balboa Blvd.

December 7, 2008

Re: 1216 W. Balboa Blvd.

Dear Mr. Kiff,

We own the duplex at 1213 W. Bay Ave, which is directly behind the Rehab Facility at 1216 W. Balboa Blvd. that is operated by Newport Coast Recovery. We purchased our duplex in about 2002 under our business name, Willow Creek Diversified. It is a rental property for us and is a big part of our retirement income. We do not do seasonal rentals and our tenants have all been couples and families that live in Newport because of the special lifestyle it offers. The Rehab facility has been a source of problems with every tenant we've had.

Over the years we have complained to Newport Coast Recovery directly about ALL of the items listed as adverse impacts in the ordinance. When management has been available, they have said they will try to correct the problems. Things may improve for awhile, but new clients are constantly arriving and the same old problems start again.

1. Our trash cans have been used by the Recovery home and food has been dumped in the alley behind our duplex. There have been instances of piles of cigarette butts in the alley.
2. We have had many noise complaints.....loud and offensive language is often heard across the alley as the rehab residents yell at each other.
3. There is a constant flow of traffic in the alley. On one recent day when we worked in the garage, we counted 18 vehicles in a 45 minute period. There were both vans and cars bringing supplies and people.
4. We had one really terrific family move out of the duplex after many complaints. We talked to management about their concerns and they talked to management and residents directly. Their car was keyed following one such incident and they were sure it was a result of their complaints. To paraphrase our tenant, "We want to live in a nice neighborhood without all these problems. I'm too old to be in a pissing match with a bunch of disrespectful people in rehab."

There are four rehab facilities within a block of our duplex and all within 1000 feet of the school. There is another group home in the application process two doors down from us on West Bay. That would make five. How did the City ever allow this to happen especially in such close proximity to Newport Elementary?

Newport Coast Recovery has had many months to prepare all the required documentation and I strongly urge you to deny their application for a CUP at this time and NOT to grant an extension.

Sincerely,

Pam Bacich

I'm in Sacramento on business Monday and won't be able to attend the meeting. Please see that the Hearing Officer has a chance to read my concerns.

**Brown, Janet**

---

**From:** Kiff, Dave  
**Sent:** Thursday, December 04, 2008 2:28 PM  
**To:** 'Tom Allen'; Brown, Janet  
**Subject:** FW: CUP Application as posted 12-4-08 with staff report dated 12-8-08  
  
**Importance:** High  
**Sensitivity:** Confidential

For the record for Newport Coast Recovery.

---

**From:** Denys Oberman [mailto:d.oberman@obermanassociates.com]  
**Sent:** Thursday, December 04, 2008 2:21 PM  
**To:** Kiff, Dave  
**Cc:** Kit Bobko  
**Subject:** CUP Application as posted 12-4-08 with staff report dated 12-8-08  
**Importance:** High  
**Sensitivity:** Confidential

Dave-

We have reviewed the application as posted to date for Newport Coast Recovery at 1216 w. Balboa, along with City correspondence and staff report.

We object to a continuance of the hearing based on the following

1. Applicant has had over 6 months beyond the legal submittal date to "complete" the application. This is well beyond the bounds of "reasonable accommodation". It has already been years where lack of regulation and accountability has provided a windfall to the subject business operator (and property owner), at the expense of residents, and at risk to the public. No more delay.
2. The proposed continuance deprives the public of its right to receive full information and ability to respond thereto, consistent with their rights.  
Most people had to make special arrangements to attend the 12-8 meeting (miss work, alternative child care, etc.) and this places additional undue hardship on residents and citizens that are stakeholders, who may also be unable to attend at a later date.
3. Final request: PLEASE provide me with confirmation that the evidence of impacts and violations submitted by various residents and businesses in the community associated with this Use, to the City atty. and code enforcement, fire department, etc. is located and submitted to the Hearing Officer.  
This information should include evidence for the past 4 years—as we previously discussed.

Please enter this communication into public record. Thank you.

Regards,  
Denys H. Oberman, CEO

**OBERMAN**  
Strategy and Financial Advisors

OBERMAN Strategy and Financial Advisors  
2600 Michelson Drive, Suite 1700  
Irvine, CA 92612  
Tel (949) 476-0790  
Cell (949) 230-5868

Fax (949) 752-8935

Email: [d.oberman@obermanassociates.com](mailto:d.oberman@obermanassociates.com)

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**Brown, Janet**

---

**From:** Denys Oberman [d.oberman@obermanassociates.com]  
**Sent:** Monday, December 08, 2008 10:29 AM  
**To:** Brown, Janet  
**Cc:** Kiff, Dave  
**Subject:** RE: CUP Application as posted 12-4-08 with staff report dated 12-8-08

**Importance:** High  
**Sensitivity:** Confidential

Janet-

Thank you. These documents can be submitted to the Hearing Officer along with the following clarification:

1. I note that the City has altered my documents to delete certain individual's names. This is acceptable to me, except that one document has comments pertaining to the Property owner at 1219 W. Balboa, not the rehab business Operator.
2. It is my understanding that the City already previously disclosed my complaints/contents thereof and disclosed my identity to the Newport Coast Recovery operator,  
Based on various comments that he has made to me directly. I will expect the City to advise the operator that any further intimidation or threats of retaliation is inadvisable.

Thank you.

Denys H. Oberman, CEO-Newport Beach resident

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**NCR 00088**

Cosyllon, Matt

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**From:** Kappeler, John  
**Sent:** Thursday, December 21, 2006 10:13 AM  
**To:** Cosyllon, Matt  
**Subject:** FW: Complaint and Request for inspection and citation  
**Importance:** High

---

**From:** Denys Oberman [mailto:d.oberman@obermanassociates.com]  
**Sent:** Wednesday, December 20, 2006 3:57 PM  
**To:** Kappeler, John  
**Subject:** Complaint and Request for inspection and citation  
**Importance:** High

John-

Thank you for returning my call. To confirm, following is the complaint from myself and nine other residents in the neighborhood in connection with  
A business and administrative office being operated from residential property at 1219 West Balboa.  
My home is in front of this facility, so me and my neighbors observe and are subjected to the impacts on an ongoing day and night basis.

This business office is being operated by Newport Coast Recovery LLC) and ,who is leasing this facility improperly to this company knowing its use.  
The business office has employees not residing there coming in and out every day, as well as customer traffic by car and foot.  
It is creating adverse noise, traffic and parking impacts in the neighborhood.  
We have photographs which can confirm the staff and customers coming in and out, should you need them.

As this operation is inconsistent with the authorized residential use and city regulations, we greatly appreciate your attention .

Thank you for your assistance. You can reach me at the telephone numbers below .

Regards,

Denys H. Oberman, CEO



OBERMAN Strategy and Financial Advisers  
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NCR 00089

12/21/2006

the electronic address above, to arrange for the return of the document(s) to us.

12/21/2006

NCR 00090

NCR UP/RA 00234

**Wolcott, Cathy**

**From:** Denys Oberman [d.oberman@obermanassociates.com]  
**Sent:** Thursday, March 22, 2007 12:40 PM  
**To:** Kappeler, John; Wolcott, Cathy  
**Subject:** Complaint re. 1219 W. Balboa- Request for status confirmation  
**Importance:** High

John/Cathy-

I previously filed a Complaint regarding the facility at 1219 W. Balboa operated by Newport Coast Recovery as integral facility to their operation across the street at 1216 W. Balboa Blvd. As verbally confirmed by you, this facility is :

1. NOT licensed by the State to operate (even though its residents receive supervision and treatment from the integral facility based at 1216 W. Balboa, as well as services including meetings and transportation, etc.)

2. In violation of a number of elements of the City's zoning and building codes.

I would greatly appreciate your prompt confirmation of the status of investigation and enforcement from the various agencies. To confirm, per your recommendation, Cathy, a complaint was also filed with ADP concerning the operational non-licensed issue. I have received no word back from them, even though it has been well over a month. PLEASE move forward as we know that the City legally can, and enforce nuisance and code elements.

Also, there are some new customers of the Newport Coast business who were out in front on beach talking about their parole. What is being done to regulate this by the City? This business is right on top of us, and close to Newport Elementary School (half a block away).

We are having major problems with smoking, large piles of garbage, and new customers of theirs loitering around the alleys and properties.

The owner of Newport Coast Recovery has been antagonist when residents complain about smoking and other issues.

In the interim, my neighbors and I note continued "Group Homes" expansion on 12<sup>th</sup> Street, both at this specific location, and others.

Thank you for your assistance and follow through.

Regards,

Denys H. Oberman, CEO

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Strategy and Financial Advisors

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Irvine, CA 92612

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**NCR 00091**

3/23/2007

Van registered to Highway Recovery @ 1111 W. Sullivan Boulevard in Dallas 1 ft. street parking



NCR 00092

Kappeler, John

---

**From:** Denys Oberman [d.oberman@obermanassociates.com]  
**Sent:** Friday, March 23, 2007 9:54 AM  
**To:** Kappeler, John; Wolcott, Cathy  
**Cc:** Clauson, Robin; Cosylion, Matt  
**Subject:** RE: Complaint re. 1219 W. Balboa- Request for status confirmation  
**Importance:** High

---

Thank you, John.

Cathy /Robin, is the ADP inspection complete? If so, can we please receive documentation concerning their findings?

When the inspection was done, did they review the status of the people in the residence, and what Rehab operation they are affiliated with?

If you recall, we did establish definite integration between this location and the customers and operations, and that across the street at 1216 West Balboa.

This is definitely an integral facility affiliated with Newport Coast Recovery's business on the Peninsula. The people in this facility, per them and the manager, are under the same supervision and services as 1216, and have the same Rehab status.

John, I do appreciate your desire for date-stamped photos. I believe that the ones I provided you with the customers and managers carrying things and walking across the street from 1216 to 1219 did have this on them.

Your follow up is greatly appreciated.

Regards,

Denys H. Oberman, CEO

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Irvine, CA 92612

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---

**From:** Kappeler, John [mailto:JKappeler@city.newport-beach.ca.us]  
**Sent:** Friday, March 23, 2007 9:06 AM  
**To:** Wolcott, Cathy; Denys Oberman  
**Cc:** Clauson, Robin; Cosylion, Matt  
**Subject:** RE: Complaint re. 1219 W. Balboa- Request for status confirmation

Here's a Code Enforcement Update:

1. Nuisance Code Complaint - we inspected 1219 W Balboa Blvd from public right-of-way (prow) in response to Denys' complaint of excessive trash and debris. I didn't find any violations and called Denys with this information.

2. Home Occupation Complaint - we inspected the entire property at 1219 W Balboa Blvd and found no evidence of an illegal home occupation, however, we did find an illegal (unpermitted) unit upstairs in the attic. Enforcement

04/03/2008

NCR 00093

of the illegal unit was temporarily placed on hold at the request of ADP, pending completion of their inspection. Denys was given this information. Now that ADP has completed their investigation, we are actively back on this case and working with the property owner to bring the residence into compliance.

Denys, for any future complaints please give me as much detail as possible and if you can send me data stamped photos that would be great.

Thanks,

John

---

From: Wolcott, Cathy  
 Sent: Thursday, March 22, 2007 1:44 PM  
 To: 'Denys Oberman'; Kappeler, John  
 Cc: Clauson, Robin; Everroad, Glen  
 Subject: RE: Complaint re. 1219 W. Balboa- Request for status confirmation

Hi Denise -

1. I called ADP and filed a complaint against 1219 West Balboa on or about January 28, 2007. I said that neighbor reports and Code Enforcement inspection indicated that 1219 was operating as an annex of the licensed facility at 1216 West Balboa, there was no license for the 1219 facility, and this indicated that the capacity of 1216 West Balboa might have been exceeded as well. The ADP complaint officer who subsequently investigated 1219 W. Balboa told me 1219 West Balboa was a sober living home. The ADP has no problem with residents of the sober living facility attending treatment at the 1216 facility, because the 1216 facility is certified by ADP (as opposed to just licensed) and therefore authorized to give outpatient care under the terms of its ADP license. The ADP certification does not automatically trump local zoning code restrictions that are applied to all other residents, although federal law may require certain exceptions from the code as a reasonable accommodation. Since our investigation of that issue in relation to this facility is ongoing, I cannot comment further on it at this time. I believe I did inform you verbally of this on February 22.
2. John Kappeler can address this issue, if his investigation of building violations has been completed.
3. I will call my contact at OC Probation and see if she has any information that can be disclosed to me on parolees at this location.

Talk soon,  
 Cathy

---

From: Denys Oberman [mailto:d.oberman@obermanassociates.com]  
 Sent: Thursday, March 22, 2007 12:40 PM  
 To: Kappeler, John; Wolcott, Cathy  
 Subject: Complaint re. 1219 W. Balboa- Request for status confirmation  
 Importance: High

John/Cathy-

I previously filed a Complaint regarding the facility at 1219 W. Balboa operated by Newport Coast Recovery as integral facility to their operation across the street at 1216 W. Balboa Blvd. As verbally confirmed by you, this facility is :

1. NOT licensed by the State to operate (even though its residents receive supervision and treatment from the integral facility based at 1216 W. Balboa, as well as services including meetings and transportation, etc.)
2. In violation of a number of elements of the City's zoning and building codes.

**NCR 00094**

I would greatly appreciate your prompt confirmation of the status of investigation and enforcement from the various agencies. To confirm, per your recommendation, Cathy, a complaint was also filed with ADP concerning the operational non-licensed issue. I have received no word back from them, even though it has been well over a month. PLEASE move forward as we know that the City legally can, and enforce nuisance and code elements.

04/03/2008

Also, there are some new customers of the Newport Coast business who were out in front on beach talking about their parole. What is being done to regulate this by the City? This business is right on top of us, and close to Newport Elementary School (half a block away).t

We are having major problems with smoking, large piles of garbage, and new customers of theirs loitering around the alleys and properties.

The owner of Newport Coast Recovery has been antagonist when residents complain about smoking and other issues.

In the interim, my neighbors and I note continued "Group Homes" expansion on 12<sup>th</sup> Street, both at this specific location, and others.

Thank you for your assistance and follow through.

Regards,

Denys H. Oberman, CEO

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Strategy and Financial Advisors

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Irvine, CA 92612

Tel (949) 476-0790

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Fax (949) 752-8935

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NCR 00095

04/03/2008

NCR UP/RA 00239

**Cosylon, Matt**

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**From:** Kappeler, John  
**Sent:** Wednesday, July 11, 2007 11:03 AM  
**To:** Kiff, Dave  
**Cc:** Cosylon, Matt  
**Subject:** FW: Code enforcement status of 1219 W. Balboa  
**Importance:** High  
**Sensitivity:** Confidential

fyi-

---

**From:** Denys Oberman [mailto:d.oberman@obermanassociates.com]  
**Sent:** Wednesday, July 11, 2007 9:57 AM  
**To:** Kappeler, John  
**Cc:** Henn, Michael  
**Subject:** RE: Code enforcement status of 1219 W. Balboa  
**Importance:** High  
**Sensitivity:** Confidential

John -  
Thank you for update.

1. The owner did not have surgery when he was first cited. We will verify if he actually did, as he is well-known for getting around things. Since he personally does not need to do the required mods., and his son, a handyman and electrician, lives locally, there is no good excuse.
2. This facility houses customers of Newport Coast Recovery who are paying to be in. Residential care and treatment.

It is integral to 1216 W. Balboa. We submitted photos previously concerning this, as did , another resident.

We expect this to be shut down; either through property owner, OR through the operator, Newport Coast Recovery, who needs to confine his operation to the licensed facility at 1216 W. Balboa.  
Appreciate your efforts.

Regards,  
Denys H. Oberman, CEO

**OBERMAN**

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**NCR 00096**

07/11/2007

the electronic address above, to arrange for the return of the document(s) to us.

---

**From:** Kappeler, John [mailto:JKappeler@city.newport-beach.ca.us]  
**Sent:** Tuesday, July 10, 2007 2:31 PM  
**To:** Denys Oberman  
**Cc:** Henn, Michael  
**Subject:** RE: Code enforcement status of 1219 W. Balboa  
**Sensitivity:** Confidential

Hi Denys,

I've attached an earlier email to remind us of the violations discovered as a result of Code Enforcement's and ADP's inspections.

Here's an update relative to our enforcement actions.

1. The property owner previously received two Notices of Violation (NOV's).
2. He requested an extension for compliance, which was granted as he's recently had open heart surgery. His compliance date was July 1, 2007.
3. He's since requested another extension, which was denied.
4. We issued an Administrative Citation last week.
5. We'll issue a second Administrative Citation this week, and will continue to issue citations until he obtains compliance.

I agree with you, this case has taken a while, but be mindful of two things:

1. ADP asked us to suspend our investigation (which we did) until they conducted an inspection, and remember they found no violations.
2. We do grant extension for compliance if the property owner is responsive and/or has a valid reason to ask for an extension. In this case the property owner has been somewhat responsive (i.e. he's been into City Hall attempting to get building permits), and open heart surgery is a valid reason for an extension (he even faxed us a copy of his surgical order).

Hope this helps.

Thanks,

John

---

**From:** Denys Oberman [mailto:d.oberman@obermanassociates.com]  
**Sent:** Monday, July 09, 2007 2:43 PM  
**To:** Kappeler, John  
**Cc:** Henn, Michael  
**Subject:** Code enforcement status of 1219 W. Balboa  
**Importance:** High  
**Sensitivity:** Confidential

John-

How was your 4<sup>th</sup>? I wanted to confirm the status of our complaints and the City's investigation of the facility at

07/11/2007

NCR 00097

1219 W. Balboa.

Citizens had reported business in residential home involving traffic of people and vehicles in and out; also, an illegal residential care facility, housing customers paying for treatment.

I was previously told that the City did find evidence of both Building Code violations, and also beds for some type of "group home" use.

What is the status on this? We see more and more people coming in and out of here, going across to the other Newport Coast Recovery building at 1216 W. Balboa, continuous smoking at facility, and in large groups on the beach daily.

Please let me know what the status on this is. Have the Owner ( ) and the business operator (Newport Coast Recovery) Been cited, fined, told to cease?

I would greatly appreciate your response in the next several days, as this has been sitting for months now.

Thank you for your help.

Regards,

Dcnys H. Oberman, CEO

**OBERMAN**

Strategy and Financial Advisors

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Irvine, CA 92612

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NCR 00098

07/11/2007

NCR UP/RA 00242

**GROUP RESIDENTIAL USE PERMIT HEARING (12/8/08):  
MR. KIFF'S POWERPOINT PRESENTATION**

**NCR 00099**

11287-001\1127414v1.doc

Use Permit Hearing  
Monday, December 8, 2008

# Newport Coast Recovery, LP

NCR 00100

# Today's Hearing

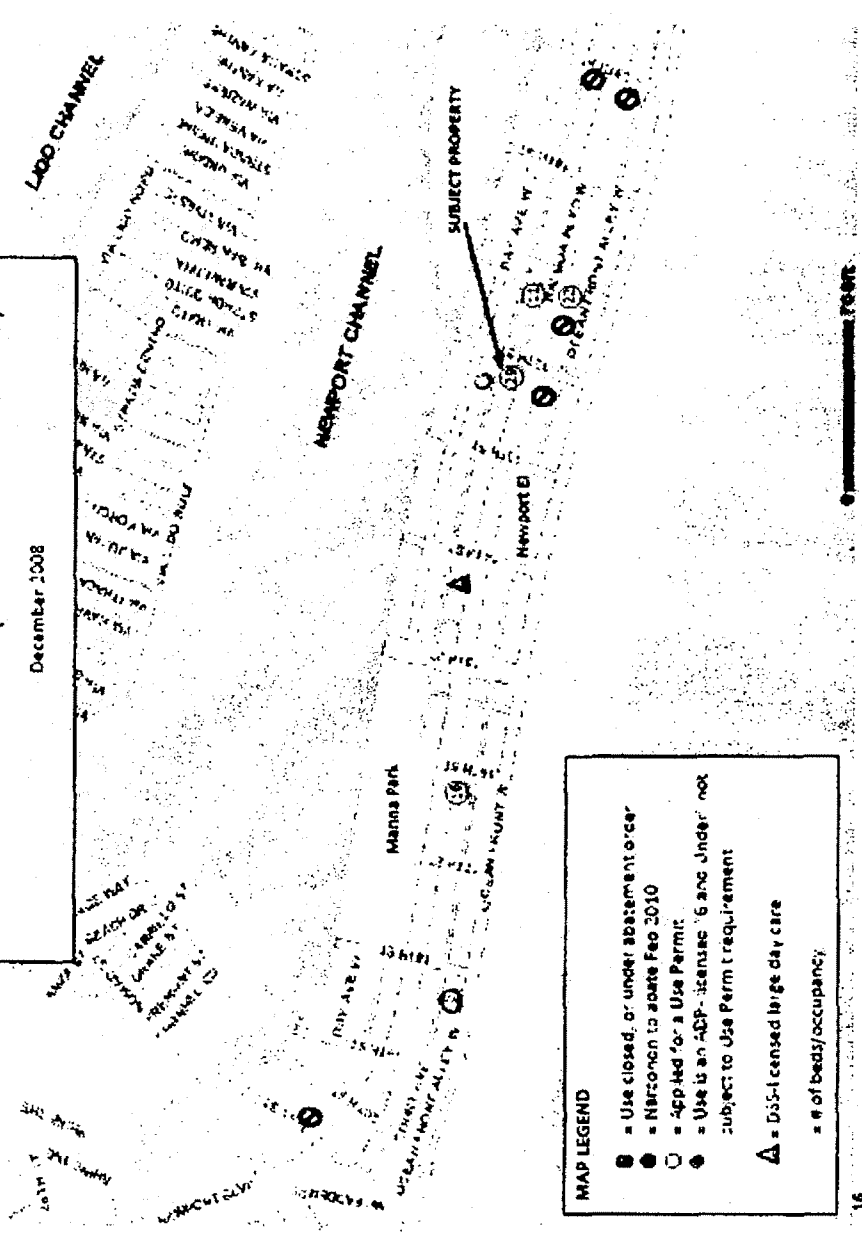
- Staff Presentation
  - Brief Background on Ordinance 2008-05 (Dave Kiff)
  - Presentation of the Newport Coast application (Debby Linn)
- Applicant's comments, if any
- Public Hearing Opened
  - Comments limited to 3 minutes unless Hearing Officer determines otherwise
- Public Hearing Closed
- Applicant can return to rebut or clarify comments made
- Questions from the Hearing Officer to the applicant or to City Staff
- Hearing Officer's determination – alternatives are:
  - Approve with conditions;
  - Deny; or
  - Continue the hearing to a date certain

# Staff Presentation

- This is a Use Permit hearing held under NBMC Chapter 20.91(A) – *Use Permits in Residential Districts*
- Ordinance 2008-05, effective February 22, 2008, calls out this process:
  - Most existing group residential uses had to apply for a Use Permit to stay in operations by May 22, 2008.
  - A Hearing Officer shall make a determination to approve or deny the Use Permit.
  - The Hearing Officer's decision can be appealed to the City Council.
  - The City Council's decision may not be appealed, but "reasonable accommodation" may be requested. RA requests go before a hearing officer at a public hearing, and can be appealed to the City Council.
  - Ordinance 2008-05 exempts one type of home from the Use Permit requirement – ADP-licensed treatment homes:
    - Housing six or fewer persons, and
    - Which do not operate integrally with other facilities ("Integral Facilities").
- US District Court Judge James Selna in May 2008 blocked the City from requiring networked ADP-licensed 6 and Unders from going through the Use Permit process (SLBTS).

NCR 00102

**BALBOA PENINSULA (Central Peninsula Area)**  
December 2008



**MAP LEGEND**

- = Use closed, or under abatement order
- = Narcotics to state Feb 2010
- = Applied for a Use Permit
- = Use is an ADP-licensed "G and Under" not subject to Use Permit requirement
- Δ = DSHS-censured large day care
- = # of beds/occupancy

NCR 00103



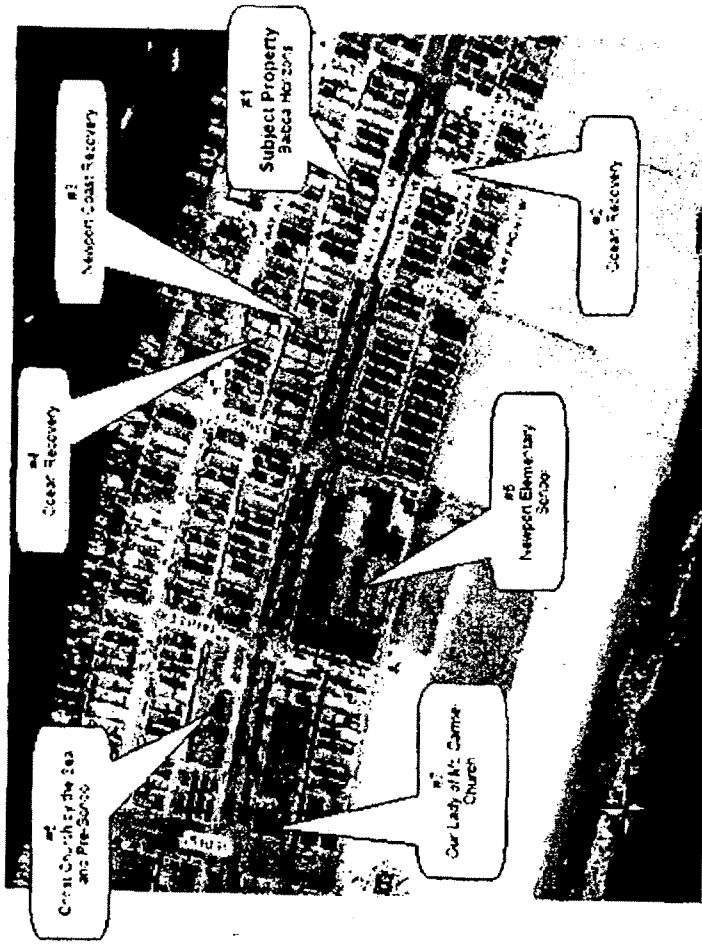
NCR 00104

# About Newport Coast Recovery

**NCR 00105**

# Location Map

LOCATION MAP  
Uses within 3 Blocks of Subject Property  
(Corrected 12/4/08)



| Location # | Address                | Use of Site                                |
|------------|------------------------|--------------------------------------------|
| 1.         | 1132 West Balboa Blvd. | Balboa Horizons                            |
| 2.         | 1115 West Balboa Blvd. | Ocean Recovery                             |
| 3.         | 1216 West Balboa Blvd. | Newport Coast Recovery                     |
| 4.         | 1217 West Bay Ave      | Ocean Recovery (ADP-licensed, 6 and Jnder) |
| 5.         | 1327 West Balboa Blvd. | Newport Elementary School                  |
| 6.         | 1400 West Balboa Blvd. | Christ Church by the Sea and Pre-school    |
| 7.         | 1441 West Balboa Blvd. | Our Lady of Mt. Carmel Church              |

# Upcoming Hearings

- The Kramer Center
  - Wednesday, December 10, 2008
  - City Council Chambers
  - 4:00 to 6:00 p.m.
- Balboa Horizons (2<sup>nd</sup> Hearing)
  - Wednesday, December 10, 2008
  - City Council Chambers
  - 4:00 to 6:00 p.m.
- Pending for January
  - Ocean Recovery
  - Yellowstone Recovery (Use Permit and RA hearings)
  - Pacific Shores Recovery (possible RA hearing)

NCR 00107

**GROUP RESIDENTIAL USE PERMIT HEARING (12/8/08):  
TRANSCRIPT**

**NCR 00108**

**CERTIFIED COPY**

**PUBLIC HEARING ON  
NEWPORT COAST RECOVERY, LP  
BEFORE THOMAS W. ALLEN, ESQ., HEARING OFFICER  
NEWPORT BEACH, CALIFORNIA  
MONDAY, DECEMBER 8, 2008**

**NCR 00109**

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Public hearing was taken on behalf of  
the City of Newport Beach at 3300 Newport Boulevard,  
Newport Beach, California, beginning at 4:00 p.m., and  
ending at 5:50 p.m., on Monday, December 8, 2008, before  
LAURA A. MILLSAP, RPR, Certified Shorthand Reporter No.  
9266.

2

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NCR 00110

NEWPORT COAST RECOVERY - 12/8/2008

1 APPEARANCES:

2  
3 For The City of Newport Beach:

4 RICHARDS, WATSON, GERSHON  
5 BY: PATRICK K. BOBKO, ESQ.  
6 355 S. Grand Avenue, 40th Floor  
7 Los Angeles, CA 90071-3101  
8 (213) 626-8484

9 CITY OF NEWPORT BEACH  
10 BY: DAVE KIFF, Assistant City Manager  
11 DEBBIE LINN, Associate Planner  
12 SHIRLEY OBORNY, Administrative Assistant  
13 3300 Newport Boulevard  
14 Newport Beach, CA 92658-8915  
15 (949) 644-3002  
16  
17  
18  
19  
20  
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NCR 00111

NEWPORT COAST RECOVERY - 12/8/2008

1 NEWPORT BEACH, CALIFORNIA; MONDAY, DECEMBER 8, 2008

2 4:00 P.M. - 5:50 P.M.

3  
4 MR. ALLEN: Good afternoon. We're going to  
5 open the proceedings here. My name is Thomas W. Allen,  
6 and I've been designated by the City as a Hearing Officer  
7 for this particular hearing involving 1216 West Balboa  
8 Boulevard.

9 I am not employed by the City except in the  
10 capacity as a Hearing Officer, and I don't have any  
11 interest in or involvement with group homes or recovery  
12 homes. So my role is as an independent Hearing Officer.  
13 The matter today, as I said, involves the 1216 West  
14 Balboa Boulevard and is designated a use permit 2008-003.

15 Before we commence, does anybody have any  
16 motions or requests or requirements?

17 MR. KIFF: Nope.

18 MR. ALLEN: Then we'll proceed with the  
19 hearing, and we'll commence with presentation of the  
20 application by City staff, and I expect Mr. Kiff will  
21 proceed first.

22 MR. KIFF: Yes. Thank you, Mr. Allen.

23 And I'm going to present a brief background on  
24 this material. For those in the audience who were,  
25 including the Hearing Officer, at the last hearing, it

4

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NCR 00112

NEWPORT COAST RECOVERY - 12/8/2008

1 will be somewhat repetitive, so I apologize for that.  
2 But for those who are new, it won't be, and I think it's  
3 valuable information.

4 When I'm done, Debbie Lynn, who is with our  
5 Planning Department will provide specific information  
6 about this application. So if you will excuse me, I need  
7 to turn some lights off.

8 So this is the use permit hearing for Newport  
9 Coast Recovery, LP. At today's hearing, there will be  
10 this presentation by the City staff. Then following a  
11 specific discussion about the Newport Coast  
12 application -- for those you in the audience, it should  
13 be available outside. It was also available on the Web  
14 site.

15 Then the Applicant gets up and speaks, and the  
16 Applicant may offer comments about the operation. The  
17 Applicant's time is not constrained. This is how we do  
18 any use permit hearing.

19 Then the public comments are open, and those  
20 comments are limited to three minutes, unless the Hearing  
21 Officer determines otherwise. Then he closes the public  
22 hearing.

23 And the Applicant can return to rebut or  
24 clarify comments made. And again, there are no time  
25 constraints on the Applicant's presentation, because it

5

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NCR 00113

1 really is their use permit application.

2 And then there are questions from the Hearing  
3 Officer to the Applicant and the City staff, and then the  
4 Hearing Officer can make one of three determinations. It  
5 can approve with conditions, deny the application, or  
6 continue the hearing to a date certain.

7 So to give folks an additional background of  
8 why we are where we are, this is a use permit hearing  
9 under the Newport Beach Municipal Code that relates to  
10 use permits in residential districts.

11 And this chapter was amended into the Code in  
12 February of 2008, which calls out a specific process that  
13 most existing group residential uses had to apply for a  
14 use permit to stay in operations, and they had to apply  
15 by May 22nd. Newport Coast Recovery did apply for that  
16 use permit.

17 A Hearing Officer can then make a determination  
18 to approve or deny the use permit. The Hearing Officer's  
19 decision, either way, can be appealed to the City  
20 Council. The City Council's decisions may not be  
21 appealed, but a reasonable accommodation may be  
22 requested.

23 Reasonable accommodation is a concept in  
24 federal law involving persons are who entitled -- who are  
25 disabled, like persons in recovery, and entitled to fair

6

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NCR 00114

1 housing opportunities. And those reasonable  
2 accommodation requests would go before a Hearing Officer  
3 and a hearing substantially similar to this one and can  
4 also be appealed to the City Council. So you can see  
5 there are a number of steps in this process. This is  
6 just one of them.

7 Now, the ordinance exempts one type of home  
8 from the use permit process, and that is a state licensed  
9 treatment home, and the state agency that licenses these  
10 I'll refer to as ADP. That's the Department of Alcohol  
11 and Drug Programs.

12 And it allows homes that house six or fewer  
13 persons and which do not operate integrally with other  
14 facilities, so you couldn't have six next door to six  
15 under the same ownership. That's what our ordinance  
16 literally said.

17 In May of 2008, we were in court on this item,  
18 and the Federal Court blocked the City from enforcing  
19 this requirement that we have in our ordinance that  
20 allows to us consider linked or networked state licensed  
21 homes with six or fewer people from going through a use  
22 permit process.

23 Now, the major company in town that does this  
24 is Sober Living by the Sea. The subject of the hearing  
25 today does not do this. This is a

7

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NEWPORT COAST RECOVERY - 12/8/2008

1 one-home -- sorry -- one facility with 29 beds in it. So  
2 it is clearly subject to the use permit process.

3 And just as a reminder, I showed this to the  
4 folks on Thursday, this is a map for the Hearing  
5 Officer's benefit as well that shows where homes are  
6 located on the central Balboa peninsula.

7 And I'm going point out, for instance, this is  
8 Balboa Horizons with 11 beds. This is Ocean Recovery  
9 with 22 beds across the street. This is the subject  
10 property, 29 beds at 1216 West Balboa.

11 You'll see a couple of hash mark spots. These  
12 are homes that could have applied but did not apply for  
13 the use permit -- for a use permit. These are subject to  
14 abatement by February of 2009.

15 There's another Ocean Recovery facility up here  
16 with 16 beds that did apply for a use permit. And then  
17 that's Narconon Southern California with 49 occupants.  
18 They are subject to a different kind of abatement. They  
19 have agreed to leave town effective February of 2010  
20 without going through a use permit process, and, again,  
21 agreed to leave. So the City has entered into an  
22 agreement with them to do just that.

23 This is the immediate vicinity of the area for  
24 Newport Coast Recovery. This is 1216 West Balboa.  
25 You'll see the property uses around it. I may,

8

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NCR 00116

NEWPORT COAST RECOVERY - 12/8/2008

1 Mr. Hearing Officer, refer back to these maps if you have  
2 questions. And then with that, I'll have Debbie discuss  
3 a little bit about the specific application.

4 MS. LINN: Thank you, Mr. Kiff.

5 The application before you this afternoon is  
6 use permit number 2008-033, which is an application by  
7 Newport Coast Recovery for approval of the use permit at  
8 1216 West Balboa Boulevard.

9 The project site, as David explained, is a  
10 seven-unit apartment building in an R3 zone currently,  
11 with an occupancy -- permitted occupancy of 29 residents.

12 The Applicant submitted their application on  
13 May the 20th. And subsequent to that, the City issued a  
14 letter of -- a Notice of Incomplete Application to the  
15 Applicant on June 16, 2008.

16 The contents and requirements of the use permit  
17 application for group homes are the same requirements and  
18 content requirements as for other use permits in the  
19 City.

20 And, in fact, to help facilitate the assembly  
21 of the application materials, the requirements for the  
22 use permit in group home situations have been somewhat  
23 simplified in the form of a checklist, so that Applicants  
24 would have a little easier time of getting their  
25 applications in.

9

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NCR 00117

NEWPORT COAST RECOVERY - 12/8/2008

1           On August the 4th, the City sent a follow-up  
2 letter to the Applicant requesting that the application  
3 materials that were outlined in the Notice of Incomplete  
4 Application be submitted by September 2, 2008, and also  
5 advised the Applicant that the failure -- the reason that  
6 these application requirements are necessary were in  
7 order conduct and completely evaluate their applications,  
8 and that failure to obtain the use permit could result in  
9 an abatement proceeding taking place.

10           Since the August the 4th letter to the  
11 Applicant, staff conducted a series of telephone -- tried  
12 to make contact by telephone with Applicant on several  
13 occasions. In October, the Applicant and City staff  
14 discussed the status of the application.

15           And at that time, the Applicant stated that the  
16 remaining materials as outlined in the June 16th Notice  
17 of Incompleteness would be submitted to the City by the  
18 first week of December 2008.

19           And at that time, staff also offered to assist  
20 the Applicant in any way necessary in order to facilitate  
21 the submittal of the materials to the City, so that we  
22 could bring the application forward with a good and  
23 complete analysis.

24           On November 14, this Applicant did submit the  
25 required fee for the application. And by November 25th,

10

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NCR 00118

NEWPORT COAST RECOVERY - 12/8/2008

1 some of the additional materials that were requested in  
2 the Notice of Incompleteness were submitted. Those are  
3 included as Exhibit 5 to the staff report.

4 Staff evaluated the materials submitted and has  
5 determined that the application is still incomplete for  
6 the reasons stated in the staff report.

7 As an addendum to the staff report, we'd like  
8 to mention that, as part of the staff report, some of the  
9 letters that were received from residents in the city  
10 were included as exhibits to the staff report.

11 And we'd like to augment that with some  
12 additional letters that have been received since the  
13 publication of the staff report, which are  
14 available -- these letters are available both outside the  
15 Council chambers here and have been delivered to the  
16 Hearing Officer.

17 In addition, staff has received a police report  
18 from the City of Newport Beach Police Department listing  
19 a chronological history -- a chronology of the calls that  
20 have been made since 2005 regarding the specific address  
21 at 1216.

22 Because the application is incomplete at this  
23 time, staff has been unable to prepare a comprehensive  
24 analysis of the project; however, it is presented to the  
25 Hearing Officer at this time as a form of an update and

11

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NCR 00119

1 to direct the next steps regarding this application.

2 The Hearing Officer has the authority to either  
3 approve this application, conditionally approve the  
4 application or disapprove the application. In order to  
5 approve or conditionally approve the application, the  
6 finding as stated in the staff report need to be made by  
7 the Hearing Officer.

8 At this time, staff is recommending that this  
9 hearing be continued to a date certain in order allow the  
10 Applicant to submit the remaining materials, but also  
11 to -- needed for this application to be deemed complete,  
12 but also to direct the Applicant to provide all the  
13 materials within 21 days prior to the scheduled continued  
14 hearing date.

15 That concludes our presentation on this  
16 particular application, and staff is available to answer  
17 any questions.

18 MR. ALLEN: Can you indicate what items are  
19 still outstanding or -- I mean, in the staff report,  
20 there's item one through six. I believe that some of  
21 those have been submitted, but what specifically is still  
22 lacking here?

23 MS. LINN: Well, actually, all of those items,  
24 one through six, which I can enumerate for the public's  
25 benefit, those items are all still outstanding.

12

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NCR 00120

1           We did not -- a signed affidavit from the  
2           property owner needs to be submitted. A comprehensive  
3           site plan is required, as is required of any use permit.  
4           The Applicant submitted some form of a plan that's not  
5           really what's considered to be a site plan. The site  
6           plan needs to show the facility's building footprint, the  
7           property lines, adjacent parcels, and building footprints  
8           on adjacent parcels.

9           We had not yet received a preliminary title  
10          report. They did submit a preliminary what we call  
11          routing plan. This is item number four. However,  
12          we -- the requirements for the routing plan for shuttle  
13          service to and from the project site require that we also  
14          be provided with times of departure and return for -- and  
15          the travel destinations of the shuttle service or bus  
16          service that is providing service to the site. And that  
17          was not included on the route map that we received.

18          We received a sort of directional map in  
19          response to our request for a building diagram and floor  
20          plan of all the rooms. We can provide an Applicant of  
21          the example of the type of floor plan and building  
22          diagram that is needed for the application when and if  
23          the Applicant requests it. But to date, that has not  
24          been supplied.

25          And then the last item is a statement as to

13

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NCR 00121

1 whether or not the facility disposes of medical and/or  
2 bio waste, and if so, to also include a plan for the  
3 disposal of these materials.

4 And if the facility does not dispose of medical  
5 and/or bio waste, really all we need in that regard is a  
6 statement in letter format that says, "We do not deal  
7 with those sorts of materials." So those are the  
8 outstanding items to date.

9 Additionally, the Fire Marshal will request a  
10 comprehensive code analysis before the use permit is  
11 valid. We have requested and received a Form 850, which  
12 is a fire clearance, from the Fire Marshal. However,  
13 up-to-date fire codes -- the Fire Marshal is now  
14 requiring a complete and comprehensive code analysis as  
15 part of a condition of approval or complete -- prior to  
16 the sign-off on the CUP.

17 MR. ALLEN: Have there been discussions with  
18 the Applicant regarding the fire requirements and the  
19 need to have an analysis or study done to commence that  
20 process?

21 MR. KIFF: Yes, Mr. Allen. And not directly  
22 with the Applicant himself, but we've had a couple of  
23 discussions since the Balboa Horizons' hearing on  
24 Thursday. And this requirement will require  
25 modification. I'll speak that to that later in the

14

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NCR 00122

NEWPORT COAST RECOVERY - 12/8/2008

1 hearing, depending on what your direction is as the  
2 hearing goes forward.

3 But it has involved a legal review with Special  
4 Counsel and our own City Attorney with the Fire Marshal.  
5 I apologize. I wasn't able to let Debbie know that  
6 before the hearing.

7 MR. ALLEN: Thank you.

8 Okay. I think we're at a point where we can  
9 ask the Applicant to come forward and, hopefully,  
10 commence by addressing the issues here that are on point,  
11 primarily the code requires there be a diligent effort to  
12 comply with the use permit requirements, and it looks  
13 like it's been about six months.

14 So where do we stand?

15 MR. NEWMAN: Where we stand is that I believe  
16 we'll have it all in this week. We had somebody that we  
17 had hired to do all of this, was working with a few of  
18 the different facilities. And unfortunately, he failed  
19 to get this all completed.

20 We have since gotten the title reports. We  
21 have site plans. We had to have an architect come in and  
22 redraw the site plans. The site plan that I actually  
23 submitted with the application was one that I ran by Dave  
24 Kiff, and we thought that it might suffice, but  
25 apparently it didn't. It was one that was in the City

15

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NCR 00123

NEWPORT COAST RECOVERY - 12/8/2008

1 records.

2           The building is over 50 years old, so it's very  
3 difficult to -- actually, older than that. It's very  
4 difficult to find anything on record, so we've had to  
5 start from scratch. But I do believe we have most of the  
6 information completed.

7           The City requested is that we not piecemeal  
8 any more information, and for it to all come in at one  
9 piece, and that's what we intend to do this week. And  
10 I'll go on from here.

11           You know, I've never walked into a place before  
12 where I know everyone's against me. I'm usually on that  
13 side of it. And I realize what's going on here, and I'm  
14 going to address a few of these things right now.

15           My name is Mike Newman, and I'm a partner in  
16 Newport Coast Recovery. My partner to Newport Coast  
17 Recovery is --

18           MR. ALLEN: I'm sorry. We have a problem, and  
19 I've forgotten already the first time. Everybody that  
20 comes up to talk needs to give their name and -- there's  
21 no address requirement, I take it?

22           MR. KIFF: Name is fine.

23           MR. ALLEN: -- their name and spell the last,  
24 so that it can be made a part of the record. Thank you.

25           MR. NEWMAN: My name is Mike Newman. My last

16

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NEWPORT COAST RECOVERY - 12/8/2008

1 name is spelled N-e-w-m-a-n. I'm a partner in Newport  
2 Coast Recovery. My partner in Newport Coast Recovery is  
3 Dr. Albert Pizzo.

4 Dr. Pizzo has lived and practiced medicine in  
5 Newport Beach for over 50 years. I've lived in Newport  
6 Beach for over 45 years. My wife and I both graduated  
7 from Newport Harbor High School, and our kids have all  
8 attended and graduated Newport Beach public schools.

9 I'm a founding board member of the Newport  
10 Harbor Baseball Association. And my wife and I are  
11 involved in numerous local charities. My partner and I  
12 are not profiteers the came into the City with bad  
13 intentions. Our roots in this community are deep.

14 Newport Coast Recovery is a State licensed and  
15 City licensed facility. We have never tried to  
16 manipulate the system in any way.

17 Newport Coast Recovery has been in business at  
18 our current location for over five years. The building  
19 was previously a recovery home for men operating under a  
20 different name five years prior to my involvement.

21 When my partner and I took over the facility,  
22 it was in a horrible state of disrepair. We've literally  
23 invested several hundred thousand dollars of improvements  
24 to the building. We came in and cleaned up the mess that  
25 was a visual stain on the street. We really are trying

17

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NCR 00125

1 to be good neighbors.

2           It's tough in this business, because neighbors  
3 don't like the business. So it's tough for anyone to  
4 look at us with a friendly eye. And this is a first time  
5 that I've ever come up and really associated myself with  
6 this business. I've lived here my whole life, and, you  
7 know, I don't want to be enemies with my neighbors.

8           I want to address a few of the specific  
9 concerns that the new ordinance calls out.

10           Noise. We do our best to control the noise.  
11 No music is to be played after lights out, which is 11  
12 p.m., and nothing before 9 a.m. We encourage our clients  
13 to use headphones and found that this has solved a lot of  
14 the noise issues.

15           But when you get 20 men together, it can get  
16 loud sometimes. We try to keep it orderly. If the  
17 neighbors can hear it and I know that our people who work  
18 for us can hear it, we try to take care of it as quickly  
19 as possible.

20           Secondhand smoke. Our clients may only smoke  
21 within the properly designated areas. We have areas  
22 inside the facility where our clients do smoke. People  
23 in rehab smoke. We'd like for them to stop. We'd like  
24 for them to do a lot of things, but it's not easy to  
25 change someone's life in 90 days completely.

18

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NCR 00126

NEWPORT COAST RECOVERY - 12/8/2008

1 Traffic congestion. Newport Coast Recovery  
2 owns one van for transporting our clients. At any given  
3 time, we may have five staff members on-site. We can  
4 generally accommodate most of our employee's parking  
5 on-site.

6 Our clients are not allowed to have cars during  
7 the first 30 days of treatment. And generally, they must  
8 have a valid reason to have a car thereafter. A valid  
9 reason would be a job. Currently, we have 14 clients in  
10 the facility and not one of our clients has a car.

11 Excessive trash. The only outside service that  
12 actually comes to our facility is Waste Management. We  
13 have a dumpster where we get rid of all our trash. We  
14 don't utilize the City trash. And they come twice a  
15 week.

16 Excess of debris on the sidewalks. Along with  
17 our no smoking policy in front and rear of the facility,  
18 our employees every morning go in front and the rear of  
19 the facility and sweep up and clean. They want the place  
20 to look very good. It doesn't look good when there's  
21 garbage, cigarette butts, out in front. And generally, we  
22 make every effort to keep that as clean as possible.

23 Police activity. The Newport Beach Police  
24 Department Records Division can verify they have  
25 responded in 2008 to no calls or complaints from the

19

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NCR 00127

NEWPORT COAST RECOVERY - 12/8/2008

1 public regarding our operation.

2 We've had five incidents that have involved  
3 police activity in our facility. Three of them were  
4 medical aid that they followed up for one person that was  
5 having a diabetic seizure three times in a 90-day period.  
6 Two of the calls were from us for vandalism to our  
7 vehicles.

8 In closing, I'd like to offer something to the  
9 City and concerned citizen of Newport Beach. I would  
10 immediately offer to reduce our ADP licensed bed count by  
11 20 percent. I really hope that this offer is taken in  
12 the spirit that we're making it. We're not looking to  
13 load up our building and make millions of dollars. It  
14 just doesn't happen. We really want to be responsible  
15 neighbors.

16 I've met with Denys. I've given her my pledge  
17 that I would work with their group the best I could. And  
18 I still believe that we can work together as neighbors,  
19 and I'm willing to do that. I'm happy to answer any  
20 questions.

21 MR. ALLEN: Before any questions, if anybody  
22 else has a cell phone that's going to go off, will you  
23 please turn it off? It really does interfere with the  
24 orderly operations.

25 I don't know. Staff may well have questions,

20

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NCR 00128

1 but my concern in looking at this application -- and this  
2 is only the second one I've looked at, so I'm not  
3 entirely up to speed -- is that I don't see in the  
4 application enough detail to give the staff the ability  
5 to say that you've presented a plan of operation and  
6 management. And I think that's a really important  
7 element of these operations.

8           You began to address you're doing your best,  
9 you know, and you mentioned cars and smoking, and  
10 sweeping and cleaning. And in all that plan of  
11 operation, those are only small parts of it. Really give  
12 the City and you a level of knowledge about what your  
13 plans are and what you're obligated to do and operate.

14           And certainly, I mean, if I had total control  
15 here, I wouldn't approve one of these facilities until  
16 there was an operating plan in place so that we knew what  
17 the permit was going to say in pretty good detail.  
18 Because, as you can see, we know there's a lot of  
19 conflict here. And the more detail we can get, the  
20 better off everybody is, I think.

21           MR. NEWMAN: Is that something that is omitted  
22 from our application right now?

23           MR. ALLEN: Pardon me?

24           MR. NEWMAN: Is there something in our  
25 application that's supposed to cover that that we didn't

21

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NCR 00129

NEWPORT COAST RECOVERY - 12/8/2008

1 do, or is that something in addition that you're looking  
2 for, or something for me right now?

3 MR. KIFF: I'll help answer that, Mr. Allen.

4 There is a section of the application, if I  
5 have the correct one in front of me in the packet, that  
6 basically starts at page 14, or so, and then moves to  
7 page 17. And that section is not filled out. And those  
8 are some of the issues that Mr. Allen raised about --

9 MR. NEWMAN: Okay.

10 MR. KIFF: -- about the quiet hours that you  
11 spoke to.

12 You mentioned, for instance, 11 to 9. And I  
13 think the 9 o'clock is something that we're supportive  
14 of. We may want to try to pull back to 10 or so, but  
15 these are the kinds of things that we'd like to see  
16 discussed.

17 MR. NEWMAN: Then, Dave, what I can tell you  
18 right now, as of today, I will get on that, and I will  
19 have that in addition to the other things that are  
20 omitted that I believe we have in place right now.

21 I will personally fill that out and have that  
22 into your office before the week. They are not things we  
23 have to create or make up. It is part of our operation.  
24 So I'm sorry it was omitted, because it should be  
25 relatively easy to fill out.

22

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1 MR. KIFF: Okay.

2 MR. NEWMAN: We did have a lot of hands  
3 touching. I'm not generally the person that fills out  
4 these things. I did hire an attorney to handle this, as  
5 you know. And, unfortunately, when your attorney stops  
6 returning your phone calls, and he's cashed your check,  
7 it's a difficult situation. So we've had a difficult  
8 time with our Counsel, and we're hoping to rectify  
9 that.

10 MR. LISKIN: Do you have a note from your  
11 mother? This is ridiculous.

12 MR. NEWMAN: All I'm looking for is some  
13 dignity and respect, sir.

14 MR. LISKIN: Give to the communities --

15 MR. ALLEN: No more of that. Thank you.

16 Anyway, I thought that that would be helpful.

17 Let's see. At this point, I don't think we're  
18 prepared to go on and talk about specific deadlines or  
19 anything. I think we need to hear from anyone else.

20 Do you have any other -- any other people other  
21 than the Applicant to --

22 MR. NEWMAN: I do not. I can answer any  
23 questions that many people are definitely going to have.  
24 I don't know if the questions are mostly statements, like  
25 the last gentleman. But again, you know, I'm happy to

23

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1 answer anything. I'm not here to create any more  
2 problems. I'm sorry for whatever was created with this  
3 whole situation. I'd like to help.

4 MR. ALLEN: I think it would be really  
5 important while the hearing is going on if you would  
6 think about what kind of time commitment you can make to  
7 put a complete wrap on this presentation.

8 Because if we agree to a continuance, which is  
9 probably the case, I think, in substantial part for legal  
10 reasons but also to give you an opportunity get it done  
11 right, it needs to be pretty quick.

12 MR. NEWMAN: We'll have it done.

13 THE COURT: It needs to be comprehensive.

14 MR. NEWMAN: It will be comprehensive. We have  
15 one through six pretty well completed, and I can have  
16 this all completed by Friday of this week.

17 MR. ALLEN: Well, okay. You know how that  
18 goes. You submit it, and then the staff says, well,  
19 that's not really complete-complete. And so -- but if  
20 you can commit to make your submittal by Friday, and then  
21 we go from there, and I bet you the staff has some  
22 recommendations on that.

23 Why don't we hold off on that for the time  
24 being, and let's hear from the public, and then we'll ask  
25 you to come back up, and you'll have an opportunity.

24

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1           So, we're going to open the public hearing now.  
2   And as Mr. Kiff mentioned, we have got a time limitation  
3   on three minutes for each speaker, and please stay with  
4   that. We aren't using this light system, but there's a  
5   little buzzer that goes off at the end of three minutes,  
6   and please just put a wrap on it at that point, I mean,  
7   10 or 15 words at the most. Because, otherwise, you're  
8   just being rude to other people that want to have the  
9   opportunity to talk.

10           So with that, let's start an orderly  
11   progression here. And please remember to give your name  
12   and spell the last before you start speaking. Thanks.

13           MR. LISKIN: My name is Matt Liskin, and I want  
14   to apologize -- L-i-s-k-i-n. And I want to apologize to  
15   everyone here.

16           But after the speaker from the facility got up,  
17   I lost my temper. The reason I lost my temper is because  
18   it's clear to me that the attitude of this gentleman is  
19   the attitude that all of us are is so disturbed about,  
20   and that's really rationalizing bad behavior.

21           And if this -- my background is about 20 years  
22   ago I started a company in health care which became the  
23   third largest provider of acute care hospitals in the  
24   country, 50 hospitals.

25           And from the facility level up, health care is

25

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1 a local business. At each facility, you have an  
2 administrator who is responsible for very basic  
3 operations. And the fact that there is not a plan that  
4 was submitted to you after all the consternation and what  
5 you've been asking for speaks volumes about this  
6 individual and its operation.

7 My view is that if they can't respond to the  
8 City, how are they ever going to respond in a respectful  
9 way to their neighbors? It makes no sense.

10 And again, excuse, after excuse, after excuse.  
11 This business depends on running a tight ship with  
12 difficult people. If you cannot have a partnership with  
13 the City, given the time they have been given, again, how  
14 can they respect our community?

15 So again, without specifics -- and finally, I  
16 think what we've seen today is why all of us are so upset  
17 with the operators and, perhaps, this one in particular.  
18 And it's clear this gentleman is being an absentee owner,  
19 and I don't care if the doc who has been here for 50  
20 years is associated with the facility.

21 How many hours a week is the doctor there?  
22 What is he responsible for? Is this JACO certified, this  
23 facility? I don't know.

24 But again, foremost I want to apologize to  
25 everyone here. But with all these people here, all the

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1 time that they have put in, all we're getting is excuse,  
2 excuse, excuse, my lawyers, this people, that people.

3 Sir, if you are an owner, this is your  
4 responsibility.

5 MR. ALLEN: No, you need to address up here.

6 MR. LISKIN: Excuse me.

7 As an owner, it is his responsibility. We are  
8 homeowners. This is our community. I don't care if he  
9 lives in Newport. Let him live 24/7 in the facility, and  
10 then I will respect that as an owner. Let him have a use  
11 plan, and then he'll respect the City. But this is  
12 nonsense. And to give him a continuance is disrespectful  
13 to everyone in this room. Thank you.

14 MR. BATLEY: My name Craig Batley, B-a-t-l-e-y.  
15 Mr. Allen, City staff, and all of these fine people out  
16 here who came out today for this hearing.

17 You know, I think everybody here feels the same  
18 way here. We have all this City time taken, we have all  
19 the time of the people out here, and I probably imagine  
20 not one person out here is for this facility being  
21 approved.

22 And I just can't even believe that this process  
23 can even have a hearing without a complete  
24 process -- a completed application. I think we shouldn't  
25 even have a hearing. This is ridiculous. From

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1 henceforth, I would recommend that the City staff, if you  
2 don't have a completed application, just postpone the  
3 hearing.

4           You, as the -- and your time is being wasted,  
5 too, Mr. Allen. You have no choice but to continue this,  
6 no choice whatsoever, or just not approve it. On its  
7 face, this is not approved. I would just not approve  
8 this thing. I'm totally against any operator who not  
9 organized and can't even make a responsible presentation.  
10 This application should be flat turned down.

11           And another thing, we have this development  
12 agreement being approved, and the operator has agreed to  
13 not have the facility within a thousand feet of a school.  
14 This is within a thousand feet of a school. It's in a  
15 wrong location. How can you have one operator not  
16 operate within a thousand feet of the school and the  
17 other one you can? That makes no sense either. This  
18 whole process makes no sense.

19           I recommend that you flat reject this  
20 application.

21           MR. MILLER: My name is John Miller,  
22 M-i-l-l-e-r. And I live in the block that the Applicant  
23 is presenting here today. And I think from my own self,  
24 and my wife too, we discussed it, we think that this  
25 whole idea is bad.

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1           And some of the reasons are, to begin with,  
2   it's less than a block to the school. Now, I know these  
3   people that stay in here are not hardened criminals, but  
4   still, they are criminals. And for them to wonder around  
5   close to this open school yard -- our school yard at  
6   Newport Elementary School is not fenced in. Anybody can  
7   walk up there at any time. So I'm not against sober  
8   living, but I'm against this location.

9           Also, when they have trucks come up to deliver  
10   things and take waste away, the alley behind there is  
11   quite narrow, and there's no way a fire truck can get  
12   through there in case of an emergency. So that's a bad  
13   thing.

14           And also, even though he says that maybe some  
15   of the people -- a few might have cars, man, there's no  
16   parking and especially in the summertime. And these  
17   people are going to have family and friends come to visit  
18   them. There's no place to park.

19           But anyway, I just think it's a bad location,  
20   and thank you very much for letting me address you.

21           MR. LOPEZ: My name is Paul Lopez, and I live  
22   at 1125 1/2 West Balboa Boulevard with my wife.

23           MR. ALLEN: Could you spell your last name?

24           MR. LOPEZ: L-o-p-e-z.

25           And I actually have to say that I'm probably a

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1 pretty good person to comment on this house and others  
2 only because I feel as though I've been in rehabilitation  
3 for five years. And I've got a facility on both sides of  
4 my house and have for, I think, one for three years and  
5 another for five years.

6 And in reading the report from last week, I  
7 know we're comment commenting on this one, but when  
8 someone says that there is no negative impact to a  
9 neighborhood, it's somebody that doesn't understand  
10 what's going on in these houses.

11 The gentleman that spoke, I guess, Mr. Newman,  
12 who talked about it's like having 20 guys together, and  
13 we do our best to manage them, another way I would call  
14 that would be a fraternity, basically. And it's very  
15 dependent upon the individual that they put in charge of  
16 managing those individuals.

17 And I drive by that place every day. And in  
18 all respect to Mr. Newman, I don't see him sweeping. I  
19 see him smoking, okay, and gathering out front in the  
20 morning. It's within -- it's less than a thousand feet  
21 from the school.

22 I thought that the City had reached a  
23 negotiation, and -- and I thought a good understanding  
24 that we wouldn't put these facilities close to schools  
25 and potentially jeopardize our kids. How does one

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1 enforce, you know, these?

2           Again, I'm probably a little bit different in  
3 that I've got one on each side of me. I've got 1132  
4 across the street, which I understand is on its way to  
5 approval. And then this one, that's 400 feet across the  
6 street. All of those four facilities are within a  
7 thousand feet of the elementary school.

8           The parking down there. And again, in respect  
9 to Mr. Newman, I've heard everybody say that they don't  
10 allow their people to use cars. And I know we're going  
11 to hear a few more applications come up. But for anybody  
12 that lives between 11th and 12th Street over the last  
13 three or four years, to see the density of parking there,  
14 and we've got four facilities there, I see these folks  
15 get in their cars every morning.

16           So I would just say as part of the application  
17 process, that we're able to validate what these owners  
18 are saying about their clients being able to have cars  
19 on-site. I can tell you the two on each side of me, all  
20 those kids have cars that they park out in the street.

21           Noise? Again, I must be living to next to the  
22 two worse facilities in Newport Beach, because I don't  
23 see any type of time code. They are down at the  
24 courtyard at 11:30 at night joking and smoking. God,  
25 must have bad managers there.

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1           And, you know, the littering and the like. I  
2 think all the stuff will be documented by other people  
3 that speak here. But what I would suggest as part of  
4 process and a part of somebody that's running the  
5 business that this group has had ample time to submit a  
6 full application.

7           Okay. So we're sitting here. Mr. Newman  
8 talked about how he's going to run his facility. And my  
9 question to him and others is how you can make a  
10 commitment to the community here that you're going to run  
11 an orderly facility when you can't even fill out an  
12 application.

13           I think that's quite disrespectful to the City  
14 and to the neighbors. And I urge the City -- I  
15 understand that you're recommending a continuance. I  
16 don't know why we just don't reject the application. If  
17 they can't put the time and effort and respect into doing  
18 it, as others have in the community, I see no reason why  
19 we should entertain their permit any longer. Thank you.

20           MR. MATHENA: I'm Larry Mathena. I submitted  
21 written comments, M-a-t-h-e-n-a.

22           Just very briefly, because I think there's a  
23 number of things to focus on here. Number one, you have  
24 not had diligent pursuit, whatsoever.

25           Number two, you have had a clear example, as

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1 Paul has rightly said, as to, from my perspective,  
2 utterly poor management.

3 Number three, I live in the same building as  
4 Paul, so everything he said is also true for me.

5 MR. ALLEN: I'm sorry. What's your address?

6 MR. MATHENA: 1125 West Balboa Boulevard.

7 Number three, you have an interesting  
8 comparison here. On some levels, I'd almost suggest that  
9 these folks at least consider the 1132 Balboa Horizons'  
10 efforts in the comparison, by the way, of someone who  
11 appears to be a responsible operator compared to someone  
12 who, on the face of things -- I don't want to make any  
13 direct judgments.

14 But having said that, I want to make a very  
15 clear point. If you go back and look at the proposed  
16 statement of conditions of Balboa Horizons' conditions,  
17 there's nothing in there that precludes them from having  
18 100 car permits tomorrow. So I totally agree with your  
19 observation that there should be a plan of operation and  
20 management.

21 But it should end up, if you did have a  
22 responsible operator -- and by the way, if you did have  
23 one more than a thousand feet from a school, because, to  
24 me, that really does trouble me. It troubled me from  
25 Balboa Horizons, and it troubles me for anybody -- that

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1 they follow those specifics. And if they don't, that  
2 they are subject to potentially losing their permit.

3 Next thing I want to put out there -- and I  
4 hear sort of the waffling already. You know, I've been  
5 involved in real estate. And to me, I've had fire  
6 departments shut down operations. And I hear this sort  
7 of, well, we're going to do this and that and the other.

8 Is that a policy decision by the City of  
9 Newport Beach? Because if it is, I think you should go  
10 all the way to the City Council and allow the public to  
11 speak to it. I mean, you are talking a fire safety  
12 issue, not who.

13 You know, frankly, we could have prevented  
14 these businesses or else put them in safely to begin with  
15 years ago. And from my perspective, it looks like we're  
16 trying to bury the point potentially because we should  
17 have dealt with it properly to begin with.

18 Last thing -- I have two more things. We've  
19 got a building that, unfortunately, is 14 occupants at  
20 the moment. That's terrible, so we have somebody that's  
21 willing to sacrifice 29 down to 5. Big deal. It's a  
22 meaningless gesture.

23 Last point is, I totally agree with the  
24 observation, but just to reiterate, one, the planning  
25 director has the absolute authority in the context of a

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1 failure to accurately and with due diligence submit an  
2 application to dismiss it. Should have been done.  
3 Alternatively, they shouldn't have wasted your time.  
4 They shouldn't have wasted my time by dragging us in  
5 here.

6 And three, it's the last important point, if  
7 they do do an application, and we do get conditions out  
8 of the City, I sincerely think we would have a full  
9 hearing all over again, so that the public is given the  
10 opportunity to respond.

11 Having said all that, if you can't terminate  
12 this one, there's none that you can terminate at all.  
13 And this is -- if that's the case, this is a complete and  
14 total charade.

15 MS. OTTING: Hi. Good evening -- I mean, good  
16 afternoon. Happy Holidays, Merry Christmas. My name is  
17 Dolores Otting, O-t-t-i-n-g. I live in Newport Beach.

18 My concern is for the health and safety and the  
19 fire code issues. This building was stated that it's  
20 50-plus years old, and that there's an inside area which  
21 allows for smoking of 29 men. So that has to be a  
22 considerable amount of cigarettes.

23 A couple of years ago, my husband was on the  
24 peninsula. We have two properties on the peninsula,  
25 including the family home, and there was a fire. And I

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1 don't know if you've driven down there, sir, but in the  
2 meantime, the density is quite intense.

3 Basically, you can get two fire engines down  
4 there, but then you had 13 or 15 fire engines from all  
5 the other areas in the county that came to help, but you  
6 can't really get them near the fire.

7 So if you go to the staff report, page 67, it's  
8 a letter dated January 29, and it's from Steve Lewis, the  
9 Fire Chief, which is signed by Steve Bunting. And I want  
10 to read these paragraphs. It says,

11 "Notwithstanding that the current California  
12 Building Code, which took effect in Newport  
13 Beach on January 1, 2008, contains new  
14 provisions for the group home uses which may  
15 allow you to have an operation that complies  
16 with current codes. It also contains several  
17 newly adopted regulations for group homes with  
18 more than six residents."

19 It goes on to say,

20 "Because the California Department of  
21 Alcohol and Drug Programs, ADP, requires you to  
22 seek fire clearance from me, as Newport Beach's  
23 Fire Marshal. I may be unable to do so without  
24 having a comprehensive code analysis by a  
25 qualified architect in hand as I complete my

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1 review of each situation. As such, I strongly  
2 encourage you to seek this comprehensive code  
3 analysis by a qualified architect prior to your  
4 next licensing renewal."

5 Then it goes on to another letter of June 6th,  
6 okay, which states,

7 "To date, I have not received the analysis  
8 for your facility. Please be advised that I  
9 need to review your code analysis and make a  
10 plan for corrections, if necessary, prior to  
11 the issuance of the fire clearance. That is  
12 part of your use permit application and part of  
13 the ADP application if you're seeking a new or  
14 extended ADP license."

15 Then I heard -- and I want some more clarity on  
16 this, because I think that we're putting the cart before  
17 the horse with this. They get to get a permit, and then  
18 we get to understand what the fire codes are? It has to  
19 be the other way around.

20 I think that the public needs to feel secure  
21 that the building has been maintained or has been  
22 upgraded to such a condition that they don't feel that  
23 there's a fire hazard for their children or for  
24 themselves. And so to say that you're going to give them  
25 a permit, and then later on, you're going to go after all

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1 of this, and -- I don't think this process is handled  
2 properly.

3 And part of the reason that we got here is  
4 because of the lack of code enforcement within the City  
5 of Newport Beach. And I've been involved in these  
6 hearings since 2003, and it's now 2008. And that's a  
7 long time, it's a lot of units, and it's a lot of fire  
8 code in an area that has a lot of density. And I think  
9 that's the number one issue, and I think the way you do  
10 this needs to be redone.

11 Thank you very much for your time.

12 MR. WETHERHOLT: Mr. Allen, my name is Drew  
13 Wetherholt, W-e-t-h-e-r-h-o-l-t. My family and I have  
14 been residents here for 15 years on the Newport  
15 peninsula.

16 Newport Coast Recovery, as we all know, is  
17 literally adjacent to Newport Elementary School. How  
18 does this have a negative impact about the school and the  
19 community? Under no circumstances should a drug rehab be  
20 located this close to an elementary school.

21 The safety of the children of this school, and  
22 all of the schools, are of the utmost importance. I have  
23 two school-age children who would have gone -- who would  
24 not only go past Newport Coast Recovery but would also go  
25 past several other rehabs to get to school.

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1           Given the typical rehab client profile of  
2 Newport Coast Recovery, this is certainly not a good mix.  
3 It is not an environment that I wish to subject my  
4 children to.

5           That fact has been a major consideration why  
6 our family will not be attending Newport El. I  
7 personally know three other families that will be not be  
8 attending Newport El. They have chosen to select other  
9 schools or private schools.

10           How does this impact Newport El.? Less  
11 students, less funding, the District -- less money the  
12 District receives.

13           Also, the client of Newport -- a lot of clients  
14 out of Newport Coast Recovery have often found the  
15 Newport Elementary School playground located on the  
16 beach. On the weekends, my kids like to go to this  
17 playground and have often found rehab clients playing on  
18 the equipment before and after their meetings at the  
19 beach. These clients are often full of tattoos, rude,  
20 using vulgar language, obscenities, as well as smoking.

21           When parents have asked them to tone down the  
22 language, these clients have been intimidating to  
23 parents. And in several cases, the police have been  
24 called. I have been cussed at personally by various  
25 rehab clientele.

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1           Many of these clients are on behavior  
2 controlling drugs. I've personally been to Lido Drug  
3 when the operators are picking up their drugs for their  
4 clients. What happens when one of Newport Coast  
5 Recovery's clients falls off his medication and then  
6 decides to take it out on a passing Newport Elementary  
7 student? I don't think it's a question of if, I think  
8 it's a question of when this happens.

9           The operator claims to have a medical director,  
10 Dr. Michael Ludoff (phonetic), M.D., but he certainly is  
11 not overseeing all these patients all the time. I find  
12 it funny that this doctor is also on the staff of some of  
13 those rehab operators.

14           I question whether there's much medical  
15 oversight with this operator. Given his responsibility,  
16 why -- irresponsibility, why would you locate the rehab  
17 this close to an elementary school, especially if he's  
18 been a resident of Newport Beach and understands how the  
19 peninsula operates in the close -- the high densities  
20 that we have down there?

21           Is it really in the best interest of the  
22 patients, the school, as well as the community to have  
23 this operator this close to an elementary school? They  
24 don't even have the responsibility to put their  
25 application together in a timely fashion. Do we not

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1 understand deadlines? Time lines?

2           Given that, I would request you deny their use  
3 permit. Thank you.

4           MR. BACICH: My name is Nick Bacich, and thank  
5 you, Mr. Allen, for taking time --

6           MR. ALLEN: Spell the last name.

7           MR. BACICH: B-a-c-i-c-h.

8           And we have a residence that's 1213 behind the  
9 facility in which we have had for awhile, and -- more  
10 than the five years that he's been operating there.

11           We have been effected by the facility in  
12 several different ways. One is traffic. They may only  
13 have one van, but I've been in the garage -- we don't  
14 live there. This is a rental.

15           But I have been in the garage and working, and  
16 in a 45-minute period, there was 18 vehicles that came  
17 up. And several of them were white vans, so they must  
18 have been picking up quite frequently.

19           But there was electricians or just different  
20 people that would pull up and run in and run out. And  
21 sometimes there would be multiple cars blocking the  
22 alleyway while people ran in and out. So the car  
23 transport is a factor.

24           And the different times that we've had problems  
25 with them, we have gone over and spoken to them. And

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1 they have been very receptive and said, "Fine. We'll try  
2 to work on this." But it's at the point that we stopped  
3 doing it.

4 We finally decided it would be better to try to  
5 work with the City to get them to do something about it,  
6 because it's not up to us, as neighbors, to supervise  
7 their business, and every time there's a problem, go over  
8 and knock on their door and tell them to, "Please,  
9 would you watch this?" or "Please, watch that?"

10 They do have trash pick-up, but somehow we  
11 always seem to get cigarettes and different things in the  
12 trash cans of our tenants. And since -- one time I went  
13 over, one of the time we were working at our place, and  
14 opened up -- because all the trash cans were full, and  
15 one as full the lasagna and probably a couple -- hundreds  
16 of cigarettes butts.

17 And so -- since none of my tenants at that time  
18 smoked, I went over, and they apologized. They didn't  
19 mean to be using it. This is all within the five-year  
20 period that that gentleman has owned the facility.

21 And everything else, I conclude with. I have  
22 no reason to repeat. The main thing is I totally agree  
23 that if they run their business in the same way  
24 they -- it's showing you in the same way they are doing  
25 their application, it's not very business like.

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1           It seems like if you were doing paperwork that  
2 meant you were going to be in business or not in  
3 business, you'd be pretty diligent. And they certainly  
4 haven't been diligent.

5           And police activity, he mentioned. We've seen  
6 cars, police cars, out there before. We've stopped going  
7 down Balboa Boulevard. One time, there were at least six  
8 police cars. We asked the police, "What is going on?"

9           And they said, "Do you live in that facility?"

10          We said, "No."

11          And they said, "Well, we can't talk to you  
12 about it." We went back and tried to pull up on -- the  
13 police is supposed to do information reports within a  
14 couple hours after they go to a site. Nothing was done.

15          So anyway, I think it's relatively easy to deny  
16 this application, because they haven't followed through  
17 as they should, and I hope you take that impetus now and  
18 do it.

19          MS. DEININGER: My name is Mary Deininger,  
20 D-e-i-n-i-n-g-e-r. I've lived here 35 years.

21          I'm one of the parents. I did take my children  
22 out of Newport Elementary because of the atmosphere  
23 there. But I would also ask that you deny this request  
24 and turn my two minutes left of whatever time over to  
25 Denys Oberman, because she has a longer presentation.

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1 MR. ALLEN: You took your children out of  
2 Newport Elementary because of the conduct of the --

3 MS. DEININGER: Because of the atmosphere  
4 there.

5 MR. ALLEN: -- rehab facilities?

6 MS. DEININGER: Yes.

7 MS. OBERMAN: Good afternoon, Mr. Allen. Denys  
8 Oberman, O-b-e-r-m-a-n.

9 I'm a resident, and I live approximate to  
10 Newport Coast Recovery. And I'm a daily beneficiary, and  
11 have been for the last five years, of impacts of the  
12 20-plus men wandering around that are, as the operator  
13 admitted, difficult to control.

14 I do want to say that I'm a little bit nervous,  
15 and I know people aren't used to me being like that. I  
16 have been -- there are been efforts, and I've been  
17 subject to certain efforts to intimidate. And my family  
18 fears for their personal safety associated with this  
19 situation.

20 And you said that there is a reason -- you  
21 expected to see this place filled with parents and people  
22 at the church and teachers if there was -- at this  
23 hearing, as evidence, if you will, that there was an  
24 issue with this operator.

25 I'm here to tell you that the reason those

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1 people are not here is because they have been  
2 intimidated, and there have been threats of intimidation,  
3 and there's been confrontational behavior. There is a  
4 history of confrontational behavior.

5 And it's unacceptable to me and inequitable to  
6 expect us to continue to put up with that. So I feel I'm  
7 taking a personal risk by standing here. But I'm going  
8 to move on to some other substantive issues associated  
9 with this application.

10 I do agree with others that the Applicant has  
11 had over six months to complete the application and has  
12 substantially failed to do. So this amount of time is  
13 more than what we would consider to be reasonable.

14 Relative to the representations thus far made  
15 and submitted, I have some additional comments. One is I  
16 noticed on page 1, and this is relative to the  
17 application submitted as of December 4th, that the  
18 Applicant left blank items questioning compliance with  
19 state and local law.

20 We contend that the Applicant has been in  
21 violation of state and local law based on the following:

22 One, a neighbor's organization, of which I'm a  
23 member called Concerned Citizen of Newport Beach, had  
24 professional representations administering a number of  
25 Public Records Act requests during the period February

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1 2007 through June 2008 time frame.

2           The reviews demonstrated that Newport Coast  
3 Recovery had never applied for or received conditional  
4 use permits or FEP's that they were supposed to within  
5 the various time frames, even though local ordinances  
6 required this operation and legally required the  
7 operation to do so.

8           Two, the Applicant operated a second facility  
9 across the street from 1216 West Balboa -- I apologize  
10 I'm going quickly, but I'm trying to beat the clock -- at  
11 1219 West Balboa, whose residence confirmed that they  
12 received counseling from Newport Coast Recovery staff at  
13 the 1216 location.

14           And so we feel that the Applicant has attempted  
15 to circumvent the state law requirements and residential  
16 care, which have to have a supervisor on staff by  
17 repeatedly claiming that this facility was good boys or,  
18 as in the application, a "transitional care" facility.

19           The Applicant does hold an ADP license for 1216  
20 West Balboa but not a license to provide counseling for  
21 1219 West Balboa. And there is some evidence in the file  
22 coming from me, and we did submit complaints and request  
23 for investigation from the City, myself and other  
24 residents.

25           Is that my three minutes? I get two left.

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1 Thank you. Okay. I feel like Dolores here. She does it  
2 better than I do. Okay.

3 Three, the Applicant obtained a local business  
4 license which represented the business as a "personal  
5 service miscellaneous," rather than a residential care  
6 and treatment facility.

7 And also on that license, the person named as  
8 the responsible operator was the man whose name is  
9 Richard Perlin. And I do have a copy of that. I thought  
10 it was in the application. I couldn't find it, but I do  
11 have a copy of that.

12 Dave, do you have your map? Could you flash  
13 that just quickly?

14 It wasn't Dr. Pizzo. It wasn't the name,  
15 clinical director, that's on the application. Mr. Perlin  
16 has an unlicensed facility, not ADP licensed, facility at  
17 1129 West Balboa. I don't believe that's on the map,  
18 Dave.

19 MR. KIFF: I believe it's one of my  
20 strike-outs?

21 MS. OBERMAN: Okay. Okay. Is it gone?

22 MR. KIFF: It needs to be abated by the end of  
23 February.

24 MS. OBERMAN: Okay. Very good.

25 The other thing tied to Mr. Perlin is that

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1 Mr. Perlin is -- he does provide intake services to  
2 another operator. Why does this matter? Because there's  
3 a representation on the Web site associated with Newport  
4 Coast Recovery -- and I'll submit it herein -- which  
5 names Richard Perlin as an executive director of Newport  
6 Coast Recovery. So I'm confused. I'm confused.

7 Okay. Going on. On page 14, the Applicant  
8 doesn't respond to a lot of the questions in the  
9 application concerning total occupancy, smoking,  
10 operations, et cetera. It doesn't respond to the  
11 disability compliance. And the Applicant's business is  
12 actually within 300 feet of Newport Elementary School.

13 Had the Applicant submitted to what he was  
14 legally required to submit to, in terms of the local  
15 review, chances are it would be very likely that he would  
16 not have gotten a conditional use permit in the first  
17 place.

18 But having said that, we now have a permit for  
19 29-plus men, many of whom have been coming out of the  
20 court system. So they have been involved with  
21 alternative sentencing and other types of conditional  
22 programs, which definitely has added to the risk and  
23 inappropriateness or incompatibility to have a facility  
24 like this so close to Newport Elementary School, and a  
25 facility, I may add, as with other facilities but

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