

**CITY OF NEWPORT BEACH
PLANNING DEPARTMENT ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: David Lepo, Planning Director
SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending June 12, 2009

ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF

Item 1: Newport Bay Hospital – Use Permit No. UP2009-011 (PA2009-037)
1501 E. 16th Street

A use permit application to allow the retention of a 1,327-square-foot modular building that serves as a meeting room and two administrative offices for an existing hospital. The subject building was previously approved by Use Permit No. UP2005-045 and is required to be removed no later than June 30, 2009. The request is to allow the building to remain until October 31, 2021, which coincides with the termination of the current property lease.

Approved – June 9, 2009

Council District 3

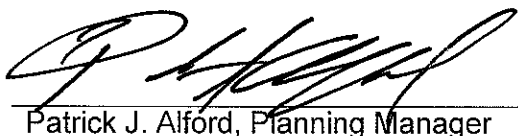
Item 2: Café Bistro at Nordstrom - Use Permit No. UP2009-015 (PA2009-061)
901 Newport Center Drive

A use permit to allow the addition of alcoholic beverage service to a new, full-service, high-turnover restaurant with a Type 41, On-sale Beer and Wine license pursuant to the PC-56 (North Newport Center Planned Community, Fashion Island) district regulations. The 1,224-net-square-foot, 2,695-gross-square-foot eating and drinking establishment will be located within a new tenant space and building currently under construction for Nordstrom. The facility includes one outdoor patio area totaling 642 square feet.

Approved – June 12, 2009

Council District 5

On behalf of David Lepo, Planning Director: -



Patrick J. Alford, Planning Manager

APPEAL:

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director (*e-mail*)
Sharon Wood, Assistant City Manager (*e-mail*)
David Keely, Public Works Senior Civil Engineer (*e-mail*)
Code Enforcement Division (*e-mail*)
Bryan Moore, NBPD (*e-mail*)
Sgt. John Freeman, NBPD (*e-mail*)



USE PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No. **Use Permit No. UP2009-011
(PA2009-037)**

Applicant **Newport Bay Hospital**

Site Address **1501 E. 16th Street
Newport Bay Hospital**

Legal Description **Portion of Lot 148, Tract 1218**

On June 9, 2009, the Planning Director approved the following: A use permit application to allow the retention of a 1,327-square-foot modular building that serves as a meeting room and two administrative offices for an existing hospital. The subject building was previously approved by Use Permit No. UP2005-045 and is required to be removed no later than June 30, 2009. The request is to allow the building to remain until October 31, 2021, which coincides with the termination of the current property lease. The property is located in the APF (Administrative, Professional, Financial) District. The approval is based on the following findings and subject to the following conditions.

FINDINGS

1. The proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.

Facts in support of finding:

- The project is located in the Administrative, Professional and Financial (APF) District, which is intended to provide areas which are predominately offices, but which also accommodate support retail and service uses. Hospitals are not a permitted use within the APF District; however, the existing 34-bed hospital was originally approved in 1971 and continues to operate pursuant to Use Permit No. 1510. Chapter 20.62 (Nonconforming Structures and Uses) of the Newport Beach Municipal Code permits the hospital to continue operating as a legal nonconforming use.
- The subject modular building provides ancillary space in support of the existing 34-bed hospital with additional administrative offices and a

meeting room, and does not result in the intensification of the hospital's nonconforming status.

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

Facts in support of finding:

- The subject property is located within the General Commercial Office (CO-G) land use designation of the General Plan. Although this designation is primarily intended to provide for administrative, professional, and medical offices, the existing 34-bed hospital was originally approved in 1971 and continues to operate pursuant to Use Permit No. 1510. The subject modular building provides ancillary space in support of the existing hospital use with additional administrative offices and a meeting room.
- The proposed retention of the modular building results in a total gross floor area of 14,921 square feet and a floor area to land area ratio (FAR) of 0.23, which is below the maximum General Plan development limitation of 0.5 FAR permitted for the site (32,607.5 sq. ft.).
- A condition of approval has been included requiring a building permit to be obtained for the installation of the modular building, which will insure the building meets all applicable Code requirements pertaining to safety and accessibility.
- The use of the modular building for administrative offices and meeting space will coincide with the regular business hours of the hospital between 8:00 a.m. and 5:00 p.m., and will not create any unusual activity or noise that may impact the adjacent neighbors.
- The project site currently provides a total of 51 parking spaces, exceeding the current parking requirement of 38 parking spaces that was established by Use Permit No. 1510 (Amended). Newport Bay Hospital is an acute psychiatric facility treating primarily non-ambulatory patients; therefore, the 51 parking spaces provided on-site are sufficient to accommodate the peak parking demand of approximately 44 employees that staff the facility during regular business hours and for visitors (average of approximately four visitors per day).

- The retention of the modular trailer is requested for a temporary duration of time concluding on October 31, 2021 to coincide with the termination of the applicant's lease on the property.
 - The modular building is located approximately 8 to 10 feet from the westerly property line adjacent to the Environmental Nature Center and is screened from view with dense landscaping. The building is not visible from Dover Drive or 16th Street. The residential properties south of the site are located at higher elevations and have a limited view of the building from above.
 - The modular building has been painted to match the color scheme of the other buildings on-site and has been maintained in good condition.
 - The modular building has been sited and utilized in its current location since 1994 and has not resulted in a detrimental impact to date.
3. The proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.

Facts in support of finding:

- For the approval of a temporary use, Section 20.60.015.C of the Newport Beach Municipal Code requires the establishment of a specific point in time for when the Use Permit shall terminate and the site shall be restored. A condition of approval has been included requiring the use of the building to terminate on October 31, 2021, at which time the modular building will be required to be removed and that portion of the site shall be returned to general parking lot use.
 - The proposed conditions of approval for this project will ensure that all potential conflicts with surrounding land uses are minimized to the greatest extent possible, or are eliminated.
4. The project is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures), as it involves the retention of a structure that will add less than 10,000 square feet of floor area to an existing facility. The project is also exempt under Class 11 (Accessory Structures), as it consists of the placement of a minor structure accessory to an existing hospital.

CONDITIONS

1. Development shall be in substantial conformance with the approved site plan, floor plan and elevation(s), except as noted in the following conditions.
2. A building permit for the modular building shall be obtained from the Building Department within 45 days of the effective date of this approval.
3. Prior to the issuance of a building permit, the Public Works Department shall review the proposed location of the modular building to ensure adequate vehicular circulation for the site is provided.
4. Any future changes to the on-site parking and vehicular circulation shall be reviewed and approved by the Public Works Department.
5. Use of the subject modular building shall terminate upon evidence that the facility is operating in violation of any of the conditions of approval of this Use Permit, Use Permit No. 1510, or upon receipt of unresolved complaints.
6. Use of the modular building shall be limited to administrative offices and a meeting room that serve the existing hospital and shall be allowed for a period not to extend beyond October 31, 2021. The modular building shall be removed and that portion of the site shall be returned to general parking lot use on or before October 31, 2021.
7. The modular building shall be maintained in good condition and shall maintain the color scheme of the other buildings on-site.
8. All mechanical equipment associated with the modular building shall be screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
9. The project shall comply with State Disabled Access requirements.
10. Storage outside of the existing buildings and subject modular building shall be prohibited, with the exception of the required trash container enclosure.
11. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a gate), or otherwise screened from view of neighboring properties except when placed for pick-up by refuse collection agencies. The trash dumpsters shall have a top which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.

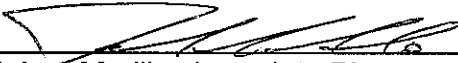
STANDARD CITY REQUIREMENTS

1. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code.
2. The Planning Director or the Planning Commission may add to or modify conditions of approval to this Use Permit, or revoke this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
3. Applicable Fairshare Fee Contributions shall be paid prior to issuance of Building Permit for the modular building.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

On behalf of David Lepo, Planning Director

By: 

Jaime Murillo, Associate Planner

PJA/jm

Attachments: Appendix
Vicinity Map
Applicant's Project Description
Project Plans

APPENDIX

Background

The hospital was originally approved as a convalescent hospital in 1956 under Use Permit No. 271. Since then, the following changes have been approved and/or occurred over the years:

Permit No.	Date Approved	Description
Use Permit No. 271	11/15/1956	Permitted the construction of a 36-bed convalescent hospital. (Hillhaven Convalescent Hospital)
Use Permit No. 1510	02/22/71	Permitted the conversion of a convalescent hospital to a 35-bed rehabilitation center for alcoholic patients. (Raleigh Hills Hospital)
n/a	1984	Hospital converted its practice to a general psychiatric treatment center. (Newport Harbor Adolescent Hospital)
Use Permit No. 1510 (Amended)	11/09/88	Permitted the expansion of dining area; construction of an addition containing two offices, a dry storage area, a walk-in refrigerator, general storage, laundry, and toilet facilities; allowed the use of a temporary modular classroom building; permitted the continued use of a former storage building for outpatient services; and allowed the retention of an as-built illuminated sports court. Note: The additions and modular classroom building were never constructed. The sports court has since been removed and converted into additional parking.
n/a	February 1993	Newport Harbor Adolescent Hospital closed.
n/a	March/April 1993	The subject modular building was re-located from an adjacent property (745 Dover Drive), also leased by Newport Harbor Adolescent Hospital, to the subject site.
n/a	February 1994	Newport Bay Hospital began operation.
Use Permit No. 200-045	11/07/2008	Authorized the continued use of temporary re-locatable trailers (including the subject modular trailer) for offices and related storage.

Modular Trailer

The modular trailer was formerly approved under Use Permit No. 3225 (Amended) and installed at the 745 Dover Drive property in 1987. Use Permit No. 3225 authorized the operation of a psychiatric care facility for the treatment of emotionally disturbed/depressed children (Newport Harbor Psychiatric Institute). The trailer was utilized for office and classroom use. According to the applicant, the modular trailer was later moved to the subject site in 1993 when Newport Harbor Hospital and Newport Harbor Psychiatric Institute closed down. The applicant also states that the modular trailer was moved to its current location on the site in January of 1994; however, building permits were never applied or issued for the relocation of the modular trailer. Although the modular trailer itself is certified by the State Department of Housing and

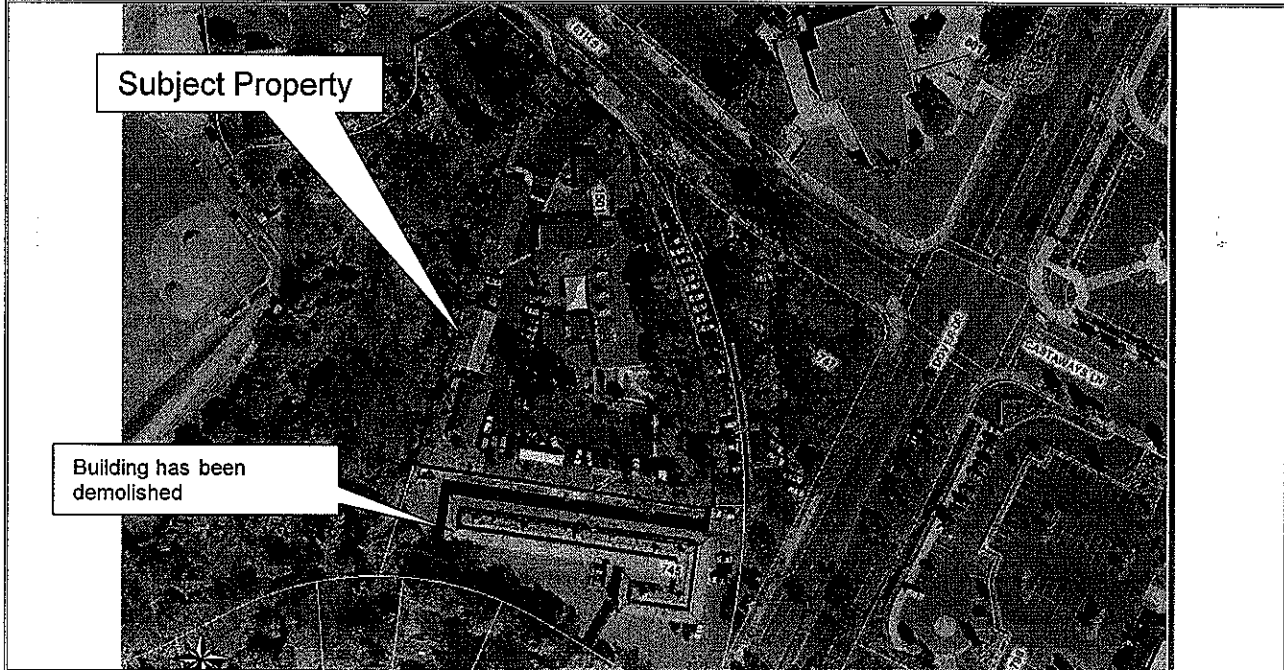
Community Development (HCD), building permits from the City are required for any improvements to the trailer, such as the foundation.

Hospital Operation

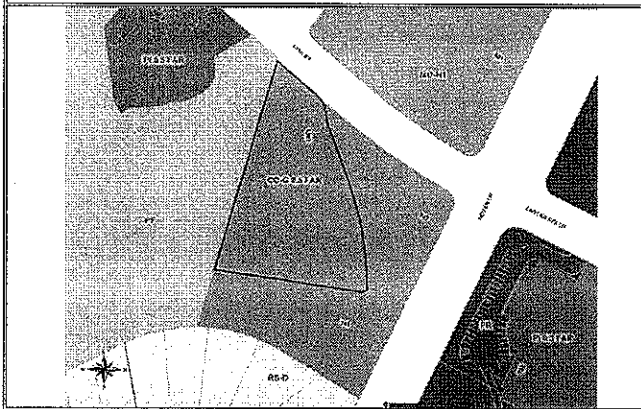
Newport Bay Hospital is an acute psychiatric hospital dedicated to senior mental health services and is certified for both Medi-Cal and Medicare. The hospital is licensed for 34 beds and operates at full or near capacity, with a waiting list. The hospital dispenses on average of over 15,000 medications per month. The patients assisted at this facility arrive in an acute crisis; therefore, all patients arrive at the hospital by ambulance, with a rare exception where a patient may drive to the facility (according to the applicant, in the last 15 years, only five patients have driven themselves to the facility).

Given the higher level of care required at this facility, approximately 44 employees staff the facility on an average day between the hours of 8:00 a.m. and 5:00 p.m. After the close of regular business at 5:00 p.m., approximately only ten employees, consisting of nurses, nurse assistants, and a secretary, staff the facility. Visiting hours for the hospital are between the hours of 1:00 p.m. and 2:00 p.m. and between the hours of 6:00 p.m. to 7:00 p.m., with approximately four guests visiting the facility per day.

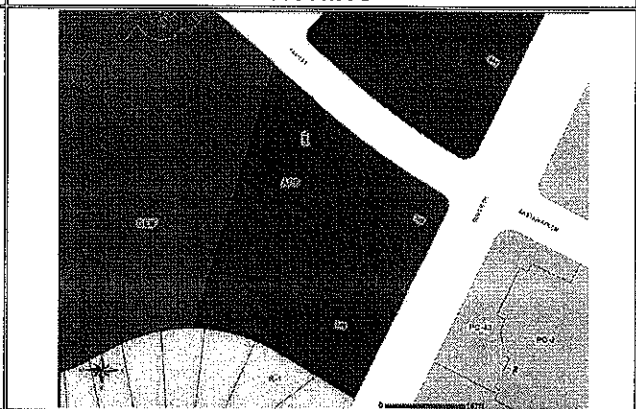
VICINITY MAP



GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	General Commercial Office (CO-G)	Administrative, Professional & Financial Commercial (APF)	Rehabilitation facility in operation since 1971
NORTH	Mixed Use Horizontal (MU-H1)	Multi-Family Residential (MFR) and APF	Across 16 th Street is the Coronado Apartment complex and commercial office use
SOUTH	CO-G	APF	Vacant Commercial Lot
EAST	CO-G	APF	Retail and office use
WEST	Public Facilities (PF) and PI	Government, Educational & Institutional Facilities (GEIF)	Environmental Nature Center and Newport Harbor High School

**NEWPORT BAY HOSPITAL
1501 E. 16TH STREET
NEWPORT BEACH, CA 92663**

**REQUEST FOR PERMANENT USE PERMIT
MODULAR BUILDING**

PROJECT DESCRIPTION

Currently, there is a Temporary Use Permit on the Modular Building (UP2005-045 / PA2005-197), which will terminate on June 30, 2009. A Permanent Use Permit is being requested 10/31/2021, such that it co-terminates with the current property lease.

Background:

Newport Bay Hospital (NBH) is an acute psychiatric hospital that is licensed by the State of California Department of Public Health and certified for both Medicare and Medi-Cal. The hospital has been in operation since February of 1994 and is the last free-standing acute psychiatric hospital in Orange County. Newport Bay Hospital provides invaluable services to Newport Beach and the surrounding communities.

The Modular Building was previously located at 745 Dover and re-located to 1501 E. 16th Street in March/April of 1993 by Century Healthcare, the sub-lessee that predated Newport Bay Hospital. The Modular Building was moved to its current location on the property on January 13, 1994.

Purpose of Request:

This building provides space for 4.5 employees and accommodates the space for the following six functions which are vital to the operation of the hospital:

1. Offices for Assessment & Referral/Intake – This function is responsible for assuring that all patients that are admitted to NBH are appropriate and requires a tremendous amount of information about each patient, their clinical background and their family history.
2. Performance Improvement/Risk Management Offices – This function is performed by Registered Nurses to assure that the hospital, our staff and our programs are continually improving regarding best practices and critical thinking.
3. Medical Leadership Office – We have a designated office within the hospital for our Chief of Staff, but periodically there is another physician utilizing that office for either dictation or meeting with a patient and their family. Space in the Modular Building is used when this occurs.
4. Tele-psychiatry Services – Under the leadership of Richard Dorsey, MD, the hospital has been providing tele-psychiatry services for over two years to patients that are located in remote areas of Central and Northern California. The goal is to provide these services to other remote/rural areas of the United States where psychiatric services are not readily available.
5. Federal/State Mandated Meetings and Training (including satellite capability)
 - a. Clinical Staff meetings/training
 - b. Medical Staff meetings/training
 - c. Administration meetings/training
 - d. Governance Board meetings
6. Storage of records, some of which were previously maintained in the Storage Containers that were removed prior to the Temporary Use Permit termination date of 12/15/08.

NBH operates at near or full capacity (34 beds), often with a waiting list. The space which the Modular Building provides is critical to the operation of the hospital. We therefore respectfully request your consideration and support in allowing this Building to remain on the property as it has for the past 15 years.



CARLIANA, R. ASSOCIATES
 ARCHITECTS
 1501 EAST 16TH STREET
 NEWPORT BEACH, CALIFORNIA 92643
 TEL: 949.440.1111
 FAX: 949.440.1112
 WWW: CARLIANA.COM

Modular Building

**NEWPORT
 BAY
 HOSPITAL**
 1501 EAST 16TH STREET
 NEWPORT BEACH, CALIFORNIA 92643

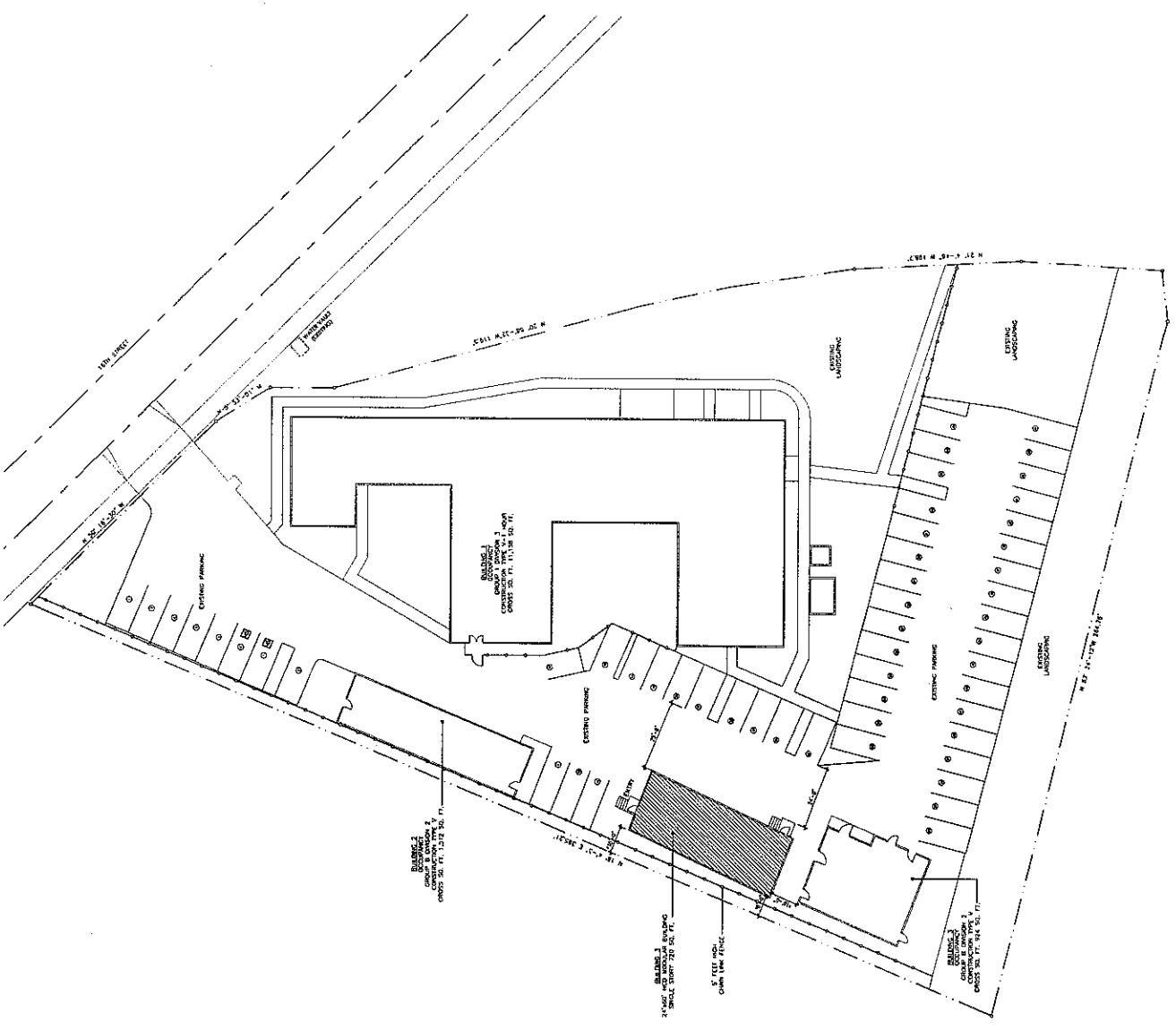


DATE	07/12
BY	RA
CHK	RA/PC
DATE	07/12

SHEET NO.



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



* INDICATES EXISTING DIMENSIONS TO BE VERIFIED BY SURVEY

PA2009-037 for UP2009-011
 1501 E. 16th Street
 Newport Bay Hospital

Site Plan

NEWPORT BAY HOSPITAL

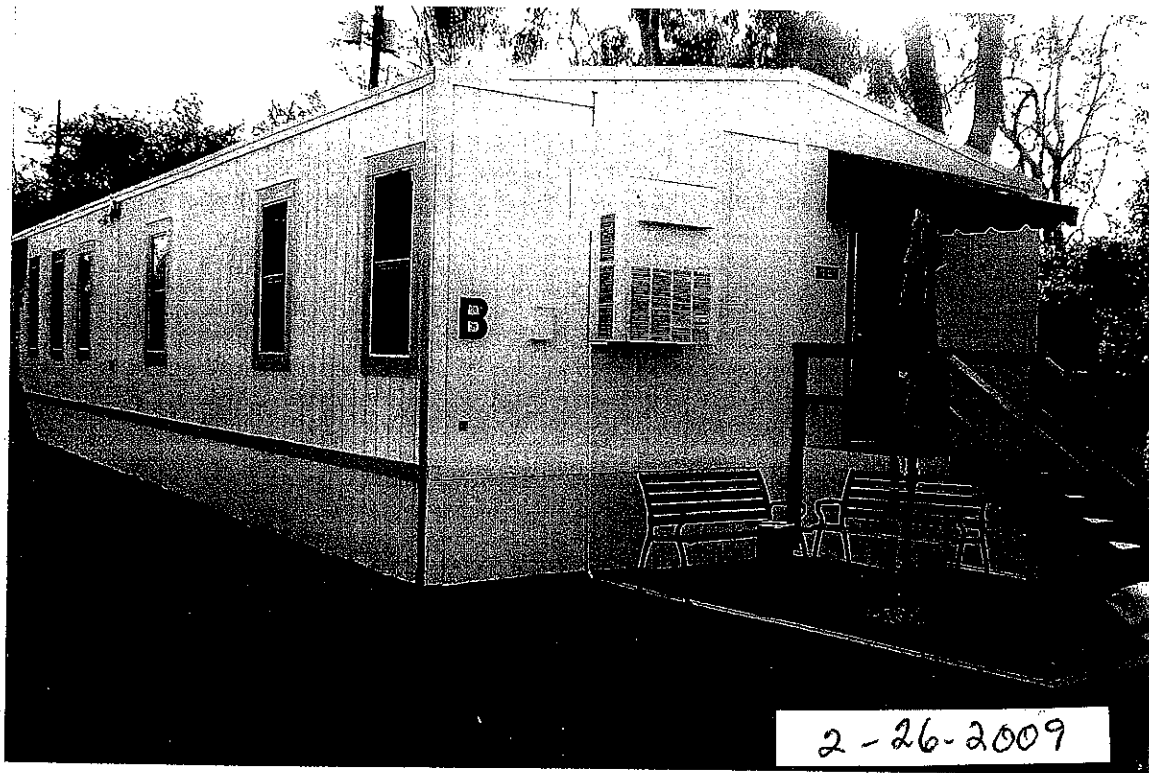
MODULAR BUILDING

WIDTH: 23' 7"

LENGTH: 56' 3"

HEIGHT, HIGHEST POINT: 13' 6"

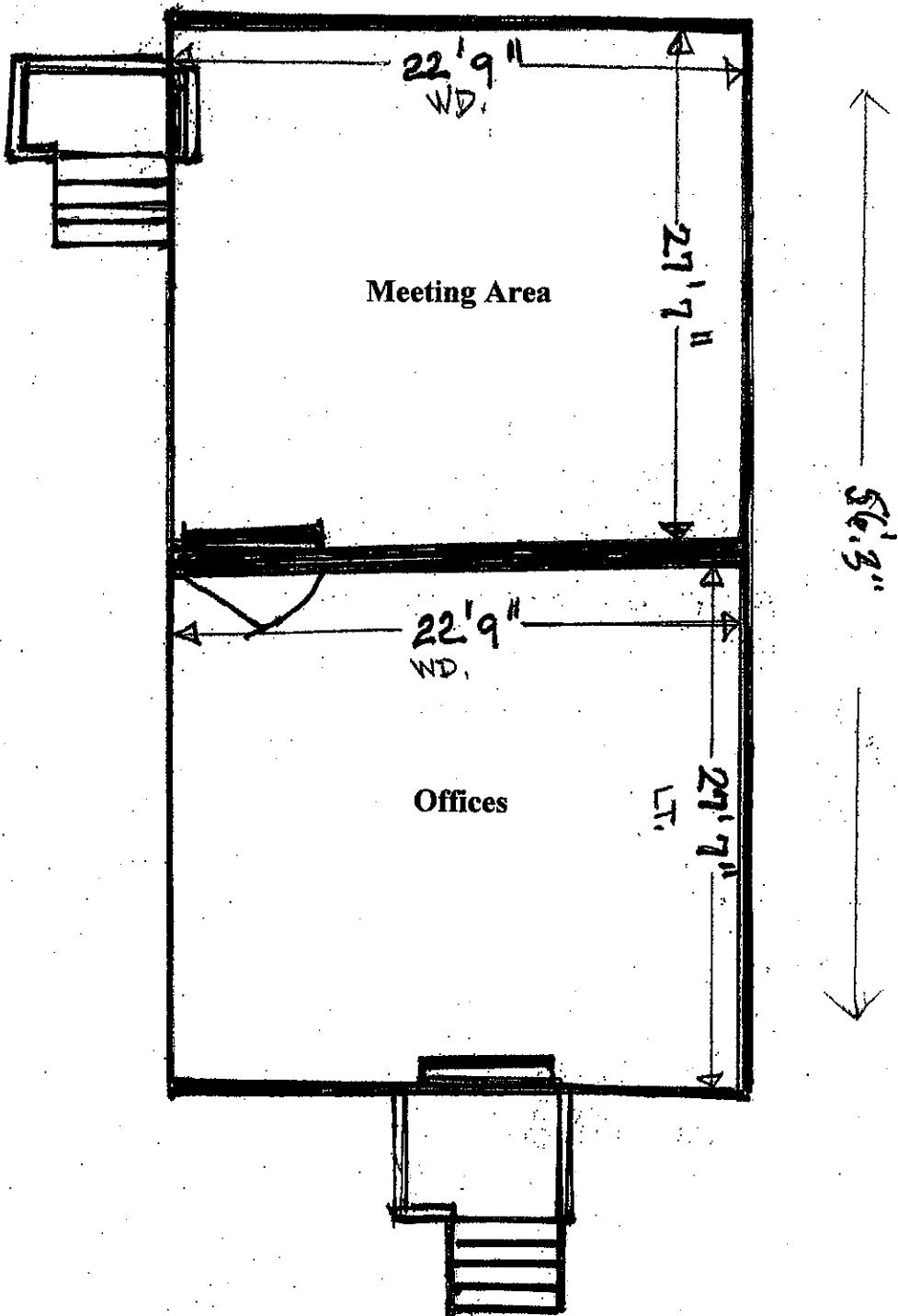
HEIGHT, LOWEST POINT: 11' 8"

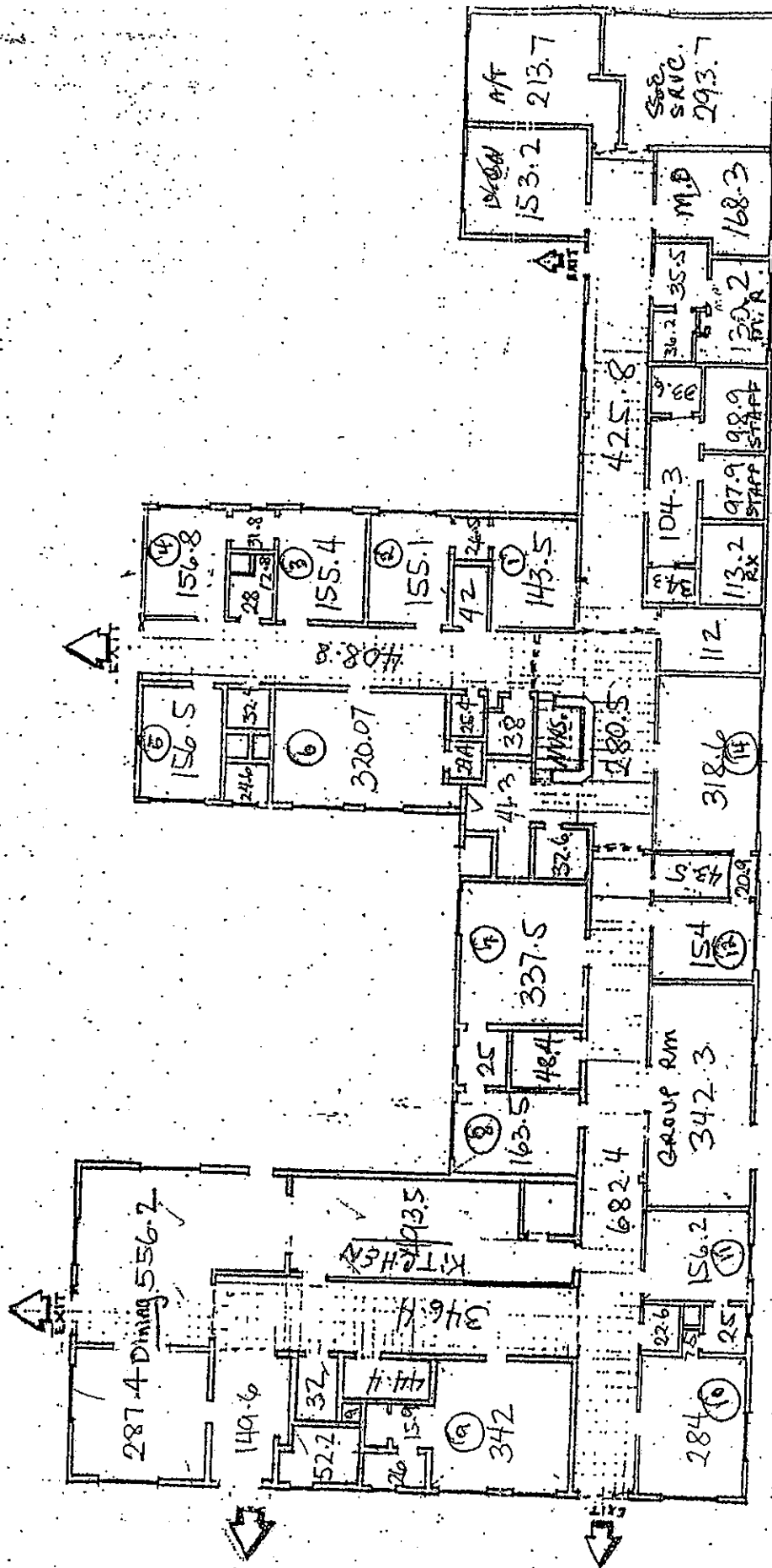


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NEWPORT BAY HOSPITAL
MODULAR BUILDING

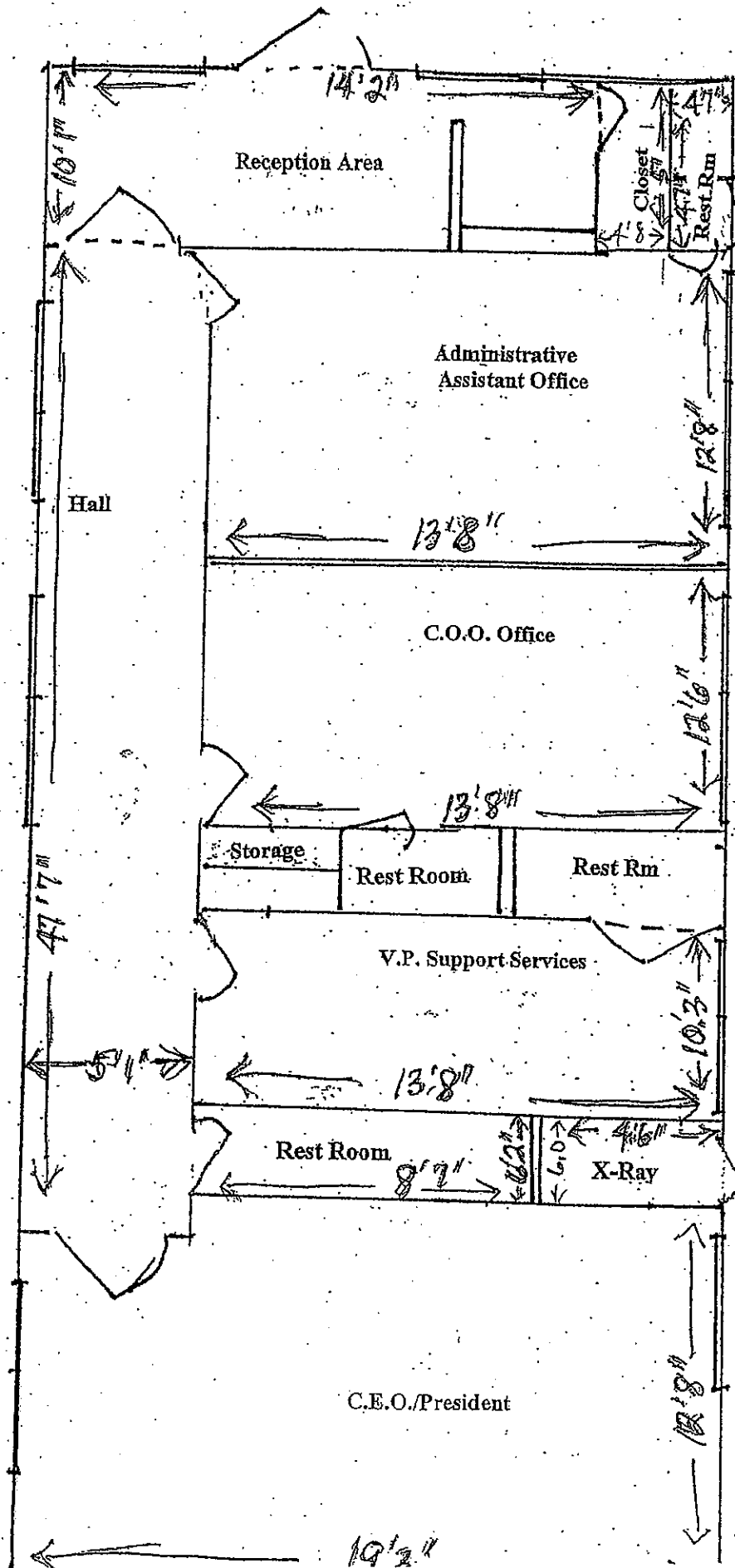
← 23'7" →





FLOOR PLAN - NEWPORT BAY HOSPITAL
 ACUTE PSYCHIATRIC HOSPITAL - 1501 E. 16TH ST. NEWPORT BEACH 92663

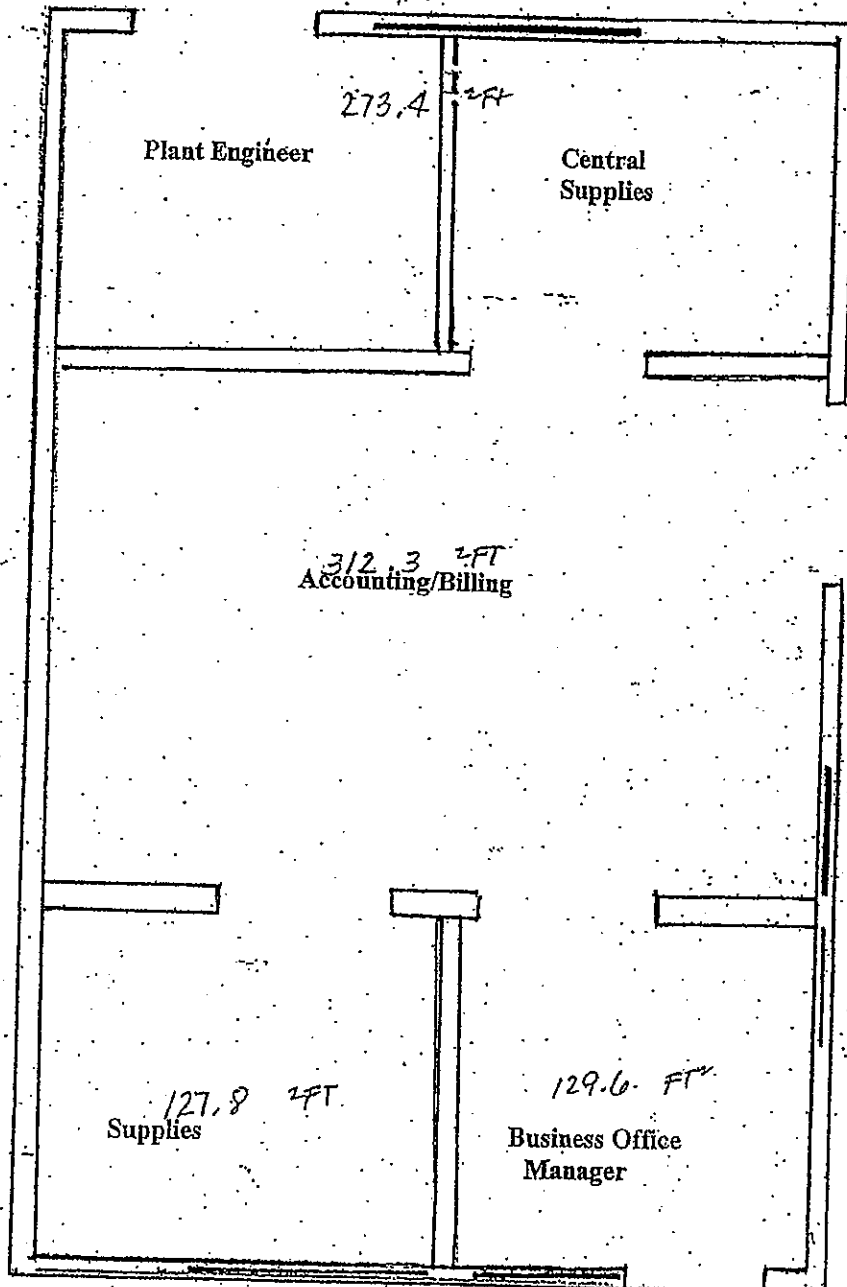
BUILDING 1 11, 158 sq ft



NEWPORT BAY HOSPITAL
 BUILDING #2 - ADMINISTRATIVE/RECEPTION 1,512 sq. ft.

NEWPORT BAY HOSPITAL
BUILDING #3
BUSINESS OFFICE/ACCOUNTING/CENTRAL SUPPLIES

924 sq. ft.





USE PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No.	Use Permit No. UP2009-015 (PA2009-061)
Applicant	Nordstrom
Site Address	901 Newport Center Drive Café Bistro at Nordstrom ABO Use Permit
Legal Description	Parcel 1, P Block 75, Page 48 Part

On June 12, 2009, the Planning Director approved the following: A use permit to allow the addition of alcoholic beverage service to a new, full-service, high-turnover restaurant with a Type 41, On-sale Beer and Wine license pursuant to the PC-56 (North Newport Center Planned Community, Fashion Island) district regulations. The 1,224-net-square-foot, 2,695-gross-square-foot eating and drinking establishment will be located within a new tenant space and building currently under construction for Nordstrom. The facility includes one outdoor patio area totaling 642 square feet. The property is located in the PC-56 (Newport Center North) District. The approval is based on the following findings and subject to the following conditions.

FINDINGS

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

Facts in support of finding:

- The current zoning classification of PC-56 (North Newport Center Planned Community, Fashion Island) permits Full Service, High Turnover, eating and drinking establishments upon the approval of a use permit by the Planning Director.
- The intent of the PC-56 (North Newport Center Planned Community, Fashion Island) Zoning District is to allow for uses that support existing retail, dining and commercial entertainment uses. Fashion Island is intended to be a vibrant regional retail and entertainment center and a day/evening destination with a wide variety of uses which will serve visitors, residents and employees of the area. The proposed full service,

high turnover eating and drinking establishment is consistent with dining uses permitted in the Fashion Island sub-area of the North Newport Center Planned Community.

- The proposed outdoor dining areas and the restaurant area are within the limits of the cumulative floor area allocated for restaurants in the Fashion Island portion of the North Newport Center Planned Community.
2. The proposed location of the eating and drinking establishment with beer and wine service operated under the conditions of this approval, is consistent with the General Plan and the purpose of the district in which the site is located, will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the City, for the following reasons:

Facts in support of finding:

- The property is designated "Regional Commercial" (CR) by the Land Use Element of the General Plan. The proposed use is consistent with that designation as it is a supporting use that is integrated as part of a retail multi-tenant commercial center, which is described as a permitted use under the CR designation.
 - The Nordstrom's department store building will provide restrooms for patrons.
 - Finding number eight addresses the proximity of sensitive land uses such as residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.
3. That the proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.

Fact in support of finding:

- The proposed use will comply with the development standards for the North Newport Center Planned Community District. The proposed conditions of approval ensure that all conflicts with surrounding land uses are minimized to the greatest extent possible or eliminated.

4. Whether the use serves public convenience or necessity.

Fact in support of finding:

- The proposed full service, high turnover eating and drinking establishment is consistent with dining uses permitted in the Fashion Island sub-area of the North Newport Center Planned Community. The retail sale and on-site consumption of alcoholic beverages provides a public convenience by allowing the sale of alcoholic beverages in conjunction with the sale of food and other beverages.
- The proposed use serves the public by offering a conveniently located restaurant within the department store to satisfy their food service needs while shopping.

5. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.

Reporting District	Part One Crimes (Serious offenses)	Part Two Crimes (All other offenses)	Part One Crimes Rate (per 100,000 people)
RD No. 39	264	317	30,414.75
RD No. 44	168	120	3,007.52
RD No. 45	16	21	1,693.12
Newport Beach	2,889	2,262	3,430.38

- The proposed establishment is located within Reporting District 39, wherein the number of crimes is higher than adjacent Reporting Districts and the City due to the high concentration of commercial land uses. RD 44 and 45 have a lower number of crimes as they are primarily residential with few commercial uses.

6. The number of alcohol licenses per capita in the reporting district and in adjacent reporting districts as compared to the county-wide average.

Reporting District	Active ABC License	Per Capita
RD No. 39	19	1 per 19 residents
RD No. 44	29	1 per 193 residents
RD No. 45	3	1 per 315 residents
Orange County	4,805	1 per 592 residents

- Reporting District 39, which encompasses the restaurant location, has a much higher ratio of liquor licenses to population when compared with the average ratio for Orange County due to the higher concentration of

commercial land uses. RD 44 and 45 have a lower number of ABC Licenses as they are primarily residential with few commercial uses.

7. The numbers of alcohol-related calls for service, crimes or arrests in the reporting district and in adjacent reporting districts.

Reporting District	DUI/Drunk Arrests	Total Arrests	Calls for Service
RD No. 39	77	262	5,484
RD No. 44	85	197	4,917
RD No. 45	5	10	456
Newport Beach	1,680	3,920	68,886

- Again, due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. Since the proposed establishment is part of a new development project, The Newport Beach Police Department has not previously reported any calls for service to the subject property since the proposed use is part of a new development project.

8. The proximity of the alcoholic beverage outlet to residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.

- The shopping center does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. The proposed use is not located in close proximity to residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools. In accordance with the Alcoholic Beverage Ordinance, the Police Department has reviewed the Use Permit application and has added additional conditions to ensure that the design and security of the new establishment are properly addressed.
- The restaurant use will be located within a shopping center designated to include such development. The Regional Commercial (CR) designation of the General Plan allows eating and drinking establishments.
- The proposed restaurant is located within a new commercial building currently under construction and will open with the on-site service and consumption of alcoholic beverages. The provision of alcoholic beverage sales and service to the facility will not substantially change the operational characteristic of the cafe.
- The use authorized by this permit is not a bar, tavern, cocktail lounge, nightclub or an establishment where live entertainment, recreational entertainment or dancing is provided. The City has experienced land use conflicts, nuisance issues and issues requiring police intervention with these types of activities in the past. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention.

- The service and consumption of alcohol at the proposed café, pursuant to a Type 41 Department of Alcoholic Beverage Control license under the conditions imposed by this Use Permit that it will be operated and maintained, complies with the provisions of the Zoning Code and the North Newport Center Planned Community District Regulations.
9. The project is in compliance with the California Environmental Quality Act (CEQA).

Fact in support of finding:

- This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of CEQA under Class 1 (Existing Facilities). This exemption allows for the operation, repair, maintenance, repair, maintenance, and minor alteration of existing buildings. The proposed restaurant is located within a new commercial building currently under construction. The construction of the new commercial building was previously permitted and is not a part of this project.
- The City's Land Use Element of the General Plan designates the site as Regional Commercial (CR); and Districting Map No. 48 of the Zoning Code designates the site as PC-56 (North Newport Center), which designates the site for commercial uses. Eating and drinking establishments are a commercial use consistent with the General Plan and the Zoning Code designations.

CONDITIONS

1. Approval does not permit the premises to operate as a bar tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a Use Permit.
2. This Use Permit shall be terminated if the operation is no longer maintained as a "bona fide public eating place" as defined by the California Department of Alcoholic Beverage Control.
3. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when in conjunction with food ordered from the full service menu.
4. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
5. The hours of operation shall be the same as the hours of operation established for Nordstrom. Any increase in the hours of operation shall be subject to the approval of an amendment to this use permit and may be subject to approval of the Planning Director.

6. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee within the Fashion Island shopping center.
7. The alcoholic beverage outlet operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the alcoholic beverage outlet and adjacent properties during business hours, if directly related to the patrons of the subject alcoholic beverage outlet. If the operator fails to discourage or correct nuisances, the Planning Director may review, modify or revoke this Use Permit in accordance with Chapter 20.96 of the Zoning Code.
8. Any exclusive patron seating or stand-up counter space located outside of the facility on the subject property or on public property (including sidewalks, streets and/or park property) is prohibited.
9. The licensee(s) or an employee of the licensee(s) will be present in the café/dining area, as well as the exterior seating areas while alcoholic beverages are being served or consumed.
10. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
11. The applicant and/or operator shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
12. There shall be no dancing and/or live entertainment allowed on the premises at any time.
13. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
14. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of this restaurant business that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

15. Service of alcoholic beverages on the outdoor patio shall be restricted to waiter/waitress service and only to patrons seated at a table.
16. The outdoor patio shall be enclosed by a minimum 42" block wall with a secured patio door for egress only.
17. No outside audible paging, sound system, loud speakers, and/or amplified music shall be utilized in conjunction with this food service establishment.
18. The operator of the facility shall be responsible for the control of noise generated by the subject facility. Pre-recorded music may be played in the interior and patio dining areas, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

19. A security plan shall be submitted for review to the Police Department and shall be approved prior to final of the building permits, unless the security plan is deemed not necessary by the Police Department.
20. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use will be cause for revocation of this Permit.
21. Should these alcohol licenses be transferred, any future license holders, operators or assignees shall be notified of the conditions of this approval by either the current licensee, business operator, or the leasing company. Future licensees, operators or assignees shall submit, within 30 days of transfer of the alcohol license, a letter to the Planning Department acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this Use Permit.
22. The kitchen exhaust fan and hood system shall include a charcoal filtering system for the control of odors and for the capture/removal of grease. The system shall be installed in accordance with the Uniform Mechanical Code approved by the Building

Department and the Planning Director (manufacturer's specifications shall be submitted for Planning Director's approval prior to issuance of the building permit) and shall be maintained in good working order. The applicant shall maintain a record of the maintenance of the exhaust fan and hood vent systems, which may be requested by the Planning Department at any time to verify compliance with this condition. Should complaints arise with regard to odors emanating from the kitchen exhaust fan and hood vent system, then at the Planning Director's discretion, the applicant shall be required to provide for monthly cleaning and maintenance of the hood vents, ducts, and filters to remedy the problem.

23. A covered wash-out area (36 inches wide by 36 inches deep by 6 feet high) for refuse containers and kitchen equipment shall be provided and shall drain directly into the sewer system, unless otherwise approved by the Building Director, Planning Department, and Public Works Director in conjunction with the approval of an alternative drainage plan. The washout area shall be specifically shown on the construction drawings submitted for building permits.
24. A grease collection device is required and shall be approved by the Building Department. The facility shall comply with the provisions of Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal.
25. The project shall obtain Health Department approval prior to obtaining building permits.
26. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Department.
27. The area outside the establishment, including the public sidewalks or walkways or common walkways, shall be maintained in a clean and orderly manner. The operator of the food service establishment shall be responsible for the clean-up of all on-site and off-site trash, garbage, and litter generated by the use as outlined in the practical program for the monitoring and implementation of clean-up included in this application as conditioned as follows:
 - All trash or litter generated by the subject establishment shall be picked up on a regular basis and during the summer months may require hourly policing of the area outside of the building.
28. Trash receptacles for patrons shall be conveniently located both inside and outside of the proposed facility; however, they shall not be located on or within any public property or right-of-way.
29. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., unless otherwise approved by the Planning Director in conjunction with an established delivery schedule.

30. All trash shall be stored within the building or within the dumpster provided for the convenience of businesses in the area or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash dumpster shall have a solid top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
31. Storage outside the building in the front or at the rear of the property shall be prohibited.
32. There shall be no exterior advertising or signs of any kind, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
33. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
34. No temporary "sandwich" signs, balloons, or similar temporary signs shall be permitted, either on-site or off-site, to advertise the proposed food establishment, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
35. The applicant shall obtain sales tax registration and a business tax certificate shall be obtained prior to opening of the establishment.

STANDARD CITY REQUIREMENTS

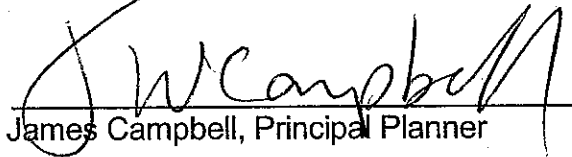
1. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.
2. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
3. The project shall comply with State Disabled Access requirements.
4. The Planning Director or the Planning Commission may add to or modify conditions to this approval, or revoke this approval upon a finding.
5. The project shall comply with the 2007 California Building Code and tenant improvement plans shall be submitted to the Building Department as a part of the plan check review process to obtain all appropriate permits.

6. A copy of this approval letter including the findings and conditions shall be blue lined onto the approved sets of plans.
7. The project shall be in substantial conformance with the approved plot plan, floor plan and elevations dated May 19, 2009.
8. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.
9. Use Permit No. 2009-015 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, or an extension is otherwise granted.
10. The Planning Commission or the Planning Director may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit upon failure to comply with the conditions set forth in Chapter 20.82 of the Municipal Code or other applicable conditions and regulations governing the food establishment, or a determination that the operation, which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

On behalf of David Lepo, Planning Director

By: 
 James Campbell, Principal Planner

JWC/mn

Attachments:	Vicinity Map Applicant's Project Description Sample Menu Project Plans
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May 18, 2009

Mr. David Lepo, Planning Director
CITY OF NEWPORT BEACH
 Planning Department
 3300 Newport Boulevard
 Newport Beach, CA 92663

Re: Revised Use Permit to Serve Alcohol Request
 Nordstrom Café Bistro
 901 Newport Center Drive
 LPA Project No. 26114.41

Dear Mr. Lepo:

On behalf our client Nordstrom, LPA Inc. is filing the enclosed Use Permit application to serve alcohol (wine and beer), at the Café Bistro, within Nordstrom's located at 901 Newport Center Drive. Per the North Newport Center Planned Community Development Plan, Eating Establishments are permitted uses and those establishments that serve alcohol, require a Use Permit.

The Café Bistro is a 1,500 +/- S.F. restaurant within Nordstrom's. Entrance to the Café occurs inside Nordstrom's; once customers arrive at the Cafe they enjoy a view of the display kitchen, complete with a brick oven surrounded by counter seating, a main dining area and patio seating. There is an outdoor patio area (net patio area is 642 sf) which is enclosed by a half height wall (not a fence) with a secured door for egress only. Customers will not have access to the Café through the secured patio door.

Please note that a license to sell ^{TYPICAL} Wine and Beer in a Public Eating Place is required from the Department of Alcoholic Beverage Control. The ABC will require a sign on the secured patio door that stipulates "No Alcohol Beyond This Point". At this point there are no other mitigations required by the ABC until they make a site visit once the restaurant is built. *ALCOHOL WILL BE SERVED ON PATIO.*

The Café's primary customers are the clients of Nordstrom's. Customers are invited to a casual and affordable restaurant that expresses a passion for food and cooking. The menu selections include salads, brick-oven pizza, entrees and sandwiches. To complete the dining experience they also offer a variety of beer, wine, coffee and deserts (see attached menu).

Most customers dine in, but take out service is also available. All alcoholic beverages are to be consumed on the premises.

The Café is open during the same business hours as Nordstrom's:

- Monday thru Friday 10:00-9:00 P.M.
- Saturday 10:00-8:00 P.M.
- Sunday 11:00-7:00 P.M.

This Café caters to the casual diner, this is not a bar or cocktail lounge, the alcohol served at the Café is to be enjoyed with the bistro style entrees and inviting environment.

20.91.035 Required Findings

The Planning Commission or the Planning Director, as the case may be, shall approve or conditionally approve an application for a use permit or variance if, on the basis of the application, plans, materials, and testimony submitted, the Planning Commission or the Planning Director finds:

A. For Use Permits

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

Response

Restaurants are permitted uses in the North Newport Center Planned Community District and those serving alcohol require a Minor Use Permit Issued by the Planning Director. Approval of the Minor Use Permit would be in accordance with the objectives of this code and the purposes of the district in which the site is located.

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

Response

The proposed use is consistent with the General Plan Land Use Designation of LU21, Regional Commercial. The proposed use is an accessory use to the principal use of mercantile. Both uses are consistent with the similar uses throughout Fashion Island.

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

Response

The proposed use will comply with all provisions of this code.

4. If the use is proposed within a Residential District (Chapter 20.10) or in an area where residential uses are provided for in Planned Community Districts or Specific Plan Districts, the use is consistent with the purposes specified in Chapter 20.91A and conforms to all requirements of that Chapter.

Response

The proposed use is not within a residential district.

20.89.030 Use Permit Required

B. Required Findings

In order to approve a use permit for an alcoholic beverage outlet, the Planning Commission, or the Planning Director, as the case may be, shall find that the proposed use is consistent with the purpose and intent of this chapter, in addition to the findings required by Section 20.91.035. In making the required findings, the Planning Commission, or the Planning Director, as the case may be, shall consider the following:

1. Whether the use serves public convenience or necessity.

Response

The proposed use serves the public by offering a conveniently located restaurant within Nordstrom to satisfy their appetite, after shopping.

2. The crime rate in the reporting district and adjacent reporting districts as 10/13/04 compared to other areas in the City.

Response

Unknown

3. The number of alcohol licenses per capita in the reporting district and in adjacent reporting districts as compared to the county-wide average.

Response

Unknown

4. The numbers of alcohol-related calls for service, crimes or arrests in the reporting district and in adjacent reporting districts.

Response

Unknown

5. The proximity of the alcoholic beverage outlet to residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.

Response

While there are residential, parks and religious assembly uses within a one mile radius, the proposed restaurant is within Nordstrom's and the restaurants that primary patrons are Nordstrom's shoppers. There is no proposed entertainment, and the hours of operations coincide with the hours of operations of Fashion Island.

Sincerely,
LPA, Inc.



Gloria Broming
Associate

cc: Inga Zunte, Architecture and Light
Susannah Fitch, Nordstrom

March 25, 2009

Mr. David Lepo, Planning Director
CITY OF NEWPORT BEACH
 Planning Department
 3300 Newport Boulevard
 Newport Beach, CA 92663

Re: Use Permit to Serve Alcohol
 Nordstrom Café Bistro
 901 Newport Center Drive

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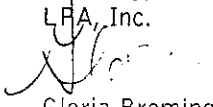
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LPA

Nordstrom's is excited to open a store in the City of Newport Beach and look forward to becoming a part of the community. Thank you for considering this application, and if you have any questions regarding the proposed Use Permit, please do not hesitate to contact me at 949-701-4008.

Sincerely,
LPA, Inc.



Gloria Broming
Associate

Cc: Inga Zunte, Architecture and Light
April

[CAFE BISTRO MENU](#)

[Back to Cafe Bistro](#)

SOUPS

BISTRO CRAB BISQUE
SOUP DU JOUR

FRENCH ONION SOUP

classic bistro specialty, baked with provolone and gruyère cheeses

SALADS

CILANTRO LIME SHRIMP

organic baby greens, romaine lettuce, warm seared shrimp, tomato, fresh corn, roasted sweet peppers, monterey jack cheese, tortilla crisps and cilantro lime vinaigrette

VINE RIPE VEGETABLE SALAD

petite tomatoes, cucumber, hearts of palm, asparagus, roma tomato, red onion, feta cheese and oregano lavosh crisps tossed with roasted tomato vinaigrette

WARM ASIAN GLAZED CHICKEN SALAD

organic baby greens, romaine lettuce, szechuan glazed chicken breast, crisp wontons, cilantro, julienne vegetables and ginger sesame dressing

BLUE CHEESE & PEAR

organic baby greens tossed with crunchy candied pecans, dried cherries, seasonal pear, blue cheese and dark cherry balsamic vinaigrette

NICOISE SALAD WITH SALMON

organic baby greens, romaine lettuce, herb-roasted salmon, french green beans, kalamata olives, petite tomatoes, red onion, potatoes, egg, capers and dijon balsamic vinaigrette

CAESAR WITH ROASTED CHICKEN

romaine lettuce, warm sliced chicken and garlic croutons, tossed with caesar dressing, served with a parmesan cheese crisp

BRICK OVEN PIZZA

MARGHERITA PIZZA

melted mozzarella, provolone and parmesan cheeses baked with tomatoes and basil

PEPPERONI PIZZA

fresh marinara, pepperoni and roasted peppers, baked with mozzarella, provolone and fontina cheeses, garnished with arugula salad



Bistro
 NOROSTROM
 FASHION ISLAND (23)
 301 NEWPORT CENTER DRIVE
 NEWPORT BEACH, CA 92660

PROJECT NO. 17-0618
 SHEET NO. RA2.1

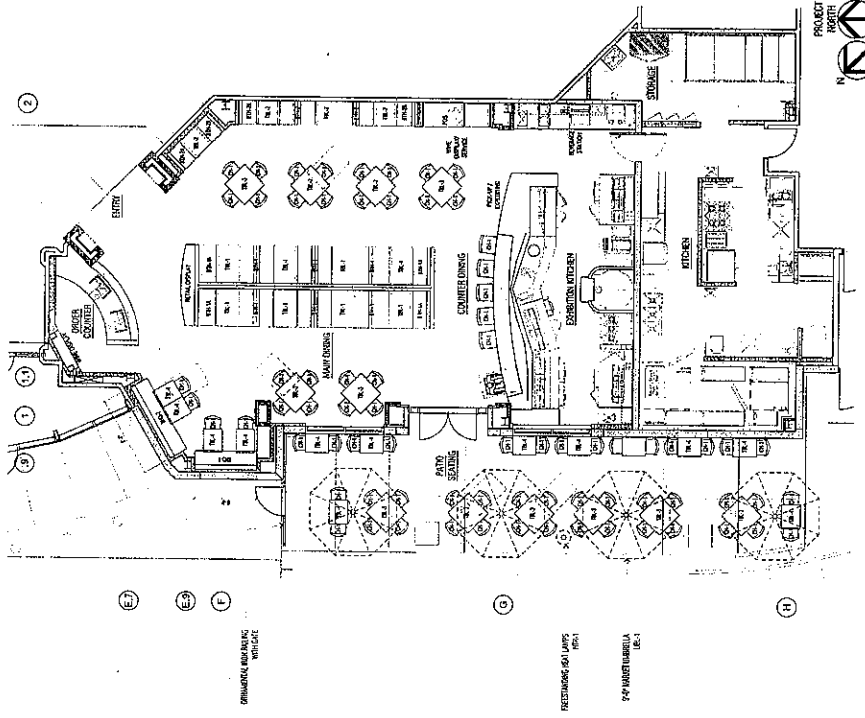
DATE: December 8, 2008
 BY: 2008.MB
 TITLE: AS NOTED
 DRAWN BY:

SEATING PLAN

RA2.1

SCHEDULE

NO.	DESCRIPTION	QTY	UNIT	TOTAL
1	STAIRS	1	EA	1
2	STAIRS	1	EA	1
3	STAIRS	1	EA	1
4	STAIRS	1	EA	1
5	STAIRS	1	EA	1
6	STAIRS	1	EA	1
7	STAIRS	1	EA	1
8	STAIRS	1	EA	1
9	STAIRS	1	EA	1
10	STAIRS	1	EA	1
11	STAIRS	1	EA	1
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14	STAIRS	1	EA	1
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46	STAIRS	1	EA	1
47	STAIRS	1	EA	1
48	STAIRS	1	EA	1
49	STAIRS	1	EA	1
50	STAIRS	1	EA	1



PROJECT NO. 17-0618
 SHEET NO. RA2.1

SEATING PLAN

1