## 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 March 26, 2010.

## ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF

Item 1: Peter Putnam – Amateur Radio & Satellite Dish Antenna (PA2010-001)

1700 Dover Drive

Approved – March 25, 2010

Council District 3

Item 2:

True Food Kitchen – Use Permit No. UP2010-004 (PA2010-018)

451 Newport Center Drive

Approved - March 22, 2010

Council District 5

On behalf of David Lepo, Planning Director:

Patrick J. Afford, Planning Manager

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

Applies to Telecom Appeal:

The applicant or any interested party may appeal the decision of the Planning Director to the City Council by a written request to the City Council within 14 days of the action date. A \$2,800.00 filing fee shall accompany any appeal filed. The City Council's action on appeals shall be final.

Email City Council

Planning Commission

David Lepo, Planning Director

Sharon Wood, Assistant City Manager

David Keely, Public Works Senior Civil Engineer

Code Enforcement Division

## AMATEUR RADIO PERMIT ACTION LETTER



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

Application No.

Amateur Radio & Satellite Dish Antenna (PA2010-001)

**Applicant** 

Peter Putnam

Site Address

1700 Dover Drive

Putnam Amateur Radio

Legal Description

Lot 2, Tract 01645

## Action

On **March 25**, **2010**, the Planning Director approved the following: an amateur radio application for attaching an antenna to a palm tree on a residentially-zoned lot. The property is located in the R-1-B (Residential B-Overlay District) District. The approval is based on the following findings and subject to the following conditions.

## **Authority**

Pursuant to Section 20.61.030 of the Zoning Code, development standards for amateur radio antennas may be waived or modified by the Planning Director upon if the standards are not necessary to achieve the objectives / purpose of Chapter 20.61 of the Zoning Code.

Amateur radios and antennas are required to comply with all setbacks on a property; however, in this case, the applicant proposes to install the antenna on an existing palm tree within the rear yard setback of the property.

The Planning Director determined that installing the antenna on the existing palm tree instead of constructing a mast outside of the setback area complies with the intent of the Zoning Code, which includes the following:

- Provide the minimum practical regulation necessary to satisfy the aesthetic, health, safety and welfare concerns that have prompted the minimal restrictions provided in the Zoning Code.
- Reasonably accommodate amateur radio communications by promoting minimum regulations necessary to achieve the purposes of the Zoning Code, and to impose no unreasonable cost on the amateur radio operators.

## **Findings**

The Planning Director has the authority issue a permit for any amateur radio antenna, structure or mast or satellite dish antenna if strict compliance with the provisions of Section 20.61.025 of the Zoning Code:

1. Result in unreasonable limitations on, or prevent, reception or transmission or signals.

The applicant proposes to install the antenna of an amateur radio on a palm tree at an elevation of 62 feet. Installation on a palm tree accommodates this elevation, so the applicant would not need to construct a stand-alone mast to hold the antenna on the property.

2. The cost of strict compliance with the development standards would be excessive in light of the purchase and installation costs of the antenna.

The subject antenna was purchased for approximately \$40.00. A stand-alone mast of 65 feet in order to provide the same elevation of the tree would cost approximately \$500.00, not including installation.

Is not necessary to achieve the objectives of this chapter.

Erecting a 65-foot-tall stand-alone mast for an antenna that meets all the setback requirements would have a more pronounced aesthetic effect on the neighborhood than simply attaching the antenna to the existing palm tree.

## **Conditions**

- The development shall be in substantial conformance with the approved plot plan, except as noted in the following conditions.
- Anything not specifically approved by this approval is prohibited and must be addressed in a separate and subsequent Amateur Radio Permit review.
- This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
- 4. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Amateur Radio Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Amateur Radio Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

- An as-built building permit shall be obtained for the amateur radio and antenna construction.
- A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
- 7. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.

## 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 \$3,070.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of David Lepo, Planning Director

Suri Campbell, Fillicipal Flat

PJA/rwb

Attachments: PD 1 Vicinity Map

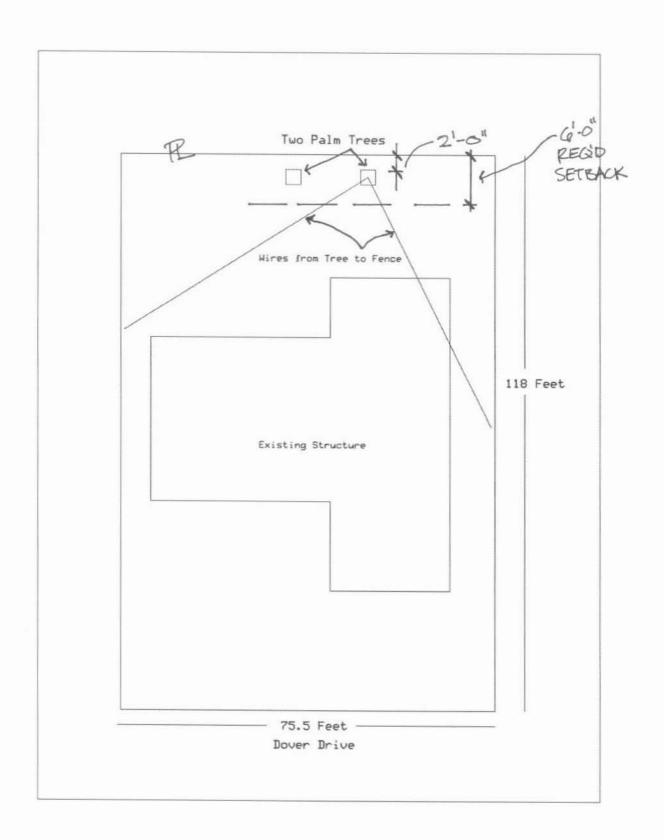
PD 2 Project Plans

## VICINITY MAP

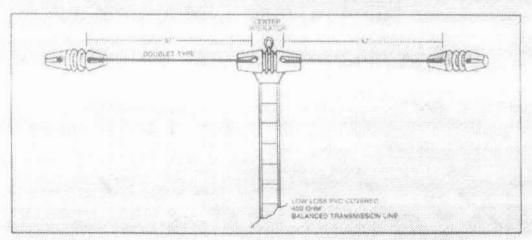


Amateur Radio and Satellite Dish Antenna Permit No. Amateur Radio & Satellite Dish Antenna PA2010-001

## 1700 Dover Drive



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## CALIFORNIP

## **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. UP2010-004 (PA2010-018)

**Applicant** 

True Food Kitchen

Site Address

**451 Newport Center Drive** 

True Food Kitchen

**Legal Description** 

Parcel 1 of LLA 87-03

On <u>March 22, 2010</u>, the Planning Director approved the following: A use permit application for an eating and drinking establishment with alcoholic beverage sales under a Type 47 Alcoholic Beverage Control license. The subject location was previously operating as a restaurant with alcoholic beverage sales. The new operator, True Food Kitchen, will have a portion of the interior dining area converted into outdoor dining and the existing outdoor dining expanded towards the parking lot to the west. The interior of the restaurant will also be remodeled. The interior net public area will increase by 163 square feet, totaling 4,115 square feet in area. The outdoor dining area will increase by 1,284 square feet, totaling 2,765 square feet in area. The project site has two previous use permits for a full service restaurant use with alcoholic beverage sales and live entertainment, which will become null and void if this use permit is approved and exercised. The property is located in the PC-56 (North Newport Center) Planned Community District. The approval is based on the following findings and subject to the following conditions.

## **FINDINGS**

 The proposed project is in compliance with the California Environmental Quality Act (CEQA).

Fact in support of finding:

- This project qualifies for an exemption from environmental review pursuant to Section 15301 (Class 1 Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act (CEQA), which exempts the ongoing use of existing commercial buildings where there is negligible or no expansion of use. The project proposal involves minimal construction including interior alterations and an expansion of the outdoor dining area.
- Finding: That the proposed location of the use is in accord with the objectives of this code and the purpose of the district in which the site is located.

## Facts in Support of Finding:

- The project is located in the PC-56 (North Newport Center) Planned Community District within the Fashion Island Sub-Area. Fashion Island is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The expansion of the existing restaurant with alcoholic beverage sales is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent with the purposes of the North Newport Center Planned Community District for the Fashion Island Sub-Area.
- Subject to the approval of a use permit by the Planning Director, alcoholic beverage sales in a restaurant is permitted within this district.
- 3. Finding: That the proposed location of the Use Permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

## Facts in Support of Finding:

- The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed restaurant with alcoholic beverage sales is a use that serves local and regional residents.
- The proposed restaurant use with alcoholic beverage sales and an expanded outdoor dining area will not be detrimental to the site or to the community based upon information provided by the Police Department and the proposed conditions of approval. The Police Department has no objections to the operation as proposed by the applicant.
- The on-site consumption of alcoholic beverages will be incidental to the restaurant u se. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period, per the conditions of approval. Alcoholic beverage service will be under the supervision of LEADtrained employees.
- The proposed hours of operation are 11:00 a.m. to 10:00 p.m., Sundays through Thursdays, and 11:00 a.m. to 11:00 p.m., Fridays and Saturdays. The restaurant may open earlier in the future should the operator decides to serve

breakfast. The proposed hours of operation are consistent with the hours of operation of other restaurants in Fashion Island.

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

Facts in Support of Finding:

- The proposed use complies 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 eliminated or minimized to the greatest extent possible.
- The proposed outdoor dining area and the restaurant area are within the limits of the cumulative floor area allocated for restaurants in Fashion Island.
- The Fashion Island shopping center provides adequate parking within the surface parking lots and parking structures on site.

### CONDITIONS

- The project must be in substantial conformance with the approved site plan, floor plans, and elevations, except as noted below.
- The hours of operation shall be limited to between 8:00 a.m. to 10:00 p.m., Sundays through Thursdays and 8:00 a.m. to 11:00 p.m., Fridays and Saturdays.
- 3. All trash shall be stored within the building or within public dumpsters 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 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.
- 4. The applicant shall maintain the trash dumpsters or receptacles so as to control odors which may include the provision of fully self-contained dumpsters or may include periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Trash generated by the establishment shall be adequately

contained in sealed plastic bags to control odors prior to placement in the trash dumpster.

- The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
- 6. The exterior of the alcoholic beverage outlet shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
- No audible paging system or speaker system shall be utilized anywhere on the premises at any time.
- The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of the Newport Beach Municipal Code.
- 9. All signs and displays must conform to the City Municipal Code requirements.
- 10. 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.
- 11. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- Storage outside of the building shall be prohibited.
- 13. A Special Event 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.
- A building permit is required prior to construction. All work must comply with the California Building Code.

- The facility shall comply with the provisions of Chapter 14.30 of the Municipal Code for commercial kitchen grease disposal, as determined by the Building Department and the Utilities Department.
- 16. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Department.
- 17. The project shall comply with State Disabled Access requirements.
- Approval is required by the Health Department.
- 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.
- 20. 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.
- 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 Municipal Code, Community Noise Control.
- 22. 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.
- 23. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the Planning Director first approves a use permit.
- 24. 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.



- 26. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9 p.m.
- 27. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
- 28. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
- 29. 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.
- 30. There shall be no live entertainment allowed on the premises.
- 31. There shall be no dancing allowed on the premises.
- No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
- Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
- 34. Strict adherence to maximum occupancy limits is required.
- 35. 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.

- 36. 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.
- 37. The Planning Director may add to or modify conditions of approval to this Use Permit, upon a determination that the operation which is subject of this Use Permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
- 38. Any changes in operational characteristics, hours of operation, expansion in area, or modification to the floor plan, shall require an amendment to this Use Permit or the processing of a new use permit, unless otherwise approved by the Planning Department.
- 39. Should the business, subject to the Use Permit conditioned herein, be sold or otherwise come under different ownership or a change in operators, any future owners, operators, or tenants shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
- Use Permit Nos. UP3615 and UP3676 shall become null and void if this Use Permit is exercised.
- This Use Permit shall expire unless exercised within twenty-four months from the date of approval as specified in Section 20.91.50 of the Newport Beach Municipal Code.

## 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 \$3,070.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of David Lepo, Planning Director

PJA/fn

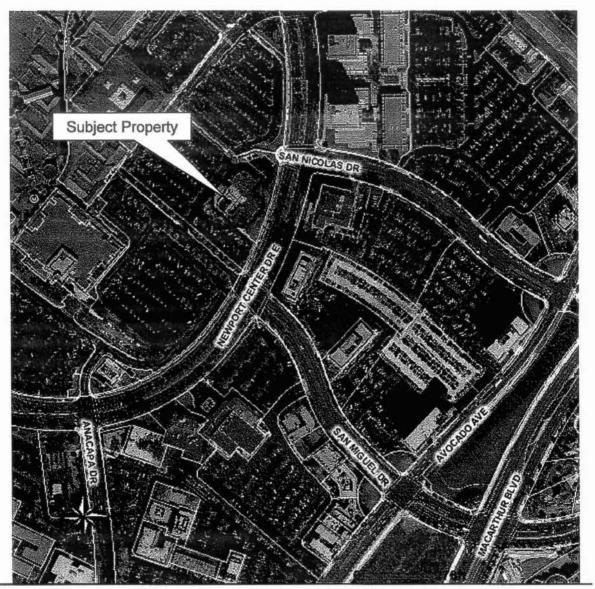
Attachments:

PD 1 Vicinity Map

PD 2 Applicant's Project Description

PD 3 Project Plans

## **VICINITY MAP**



Use Permit No. UP2010-004 PA2010-018

**451 Newport Center Drive** 

Project Description and Justification:

Re: True Food Kitchen use permit request

## http://www.foxrc.com/true food kitchen.html

The proposed project is to request a use permit for outdoor restaurant dining with alcohol service.

The new project is a remodel of an existing restaurant space that had outdoor dining use permit with alcohol service that has expired and new ownership is taking over the space.

True Food Kitchen offers a globally inspired, seasonal menu that will appeal to people of all ages seeking a more balanced lifestyle. True Food Kitchen celebrates the simple, pure flavors of quality local and regional ingredients with a menu that tastes great while nourishing your mind, body and spirit.

We believe the True Food Kitchen concept compliments the requirements set forth in Chapter 20.89.30b and 20.91.035a. All though alcohol will be served during dining hours it is not a main focus of the True Food menu. True Food Kitchen beliefs match the cities goals to preserve a healthy environment for residents and business and will provide for the safe operation of alcohol beverage sales.

At True Food Kitchen, we believe simple, fresh, pure ingredients create the most satisfying and memorable dining experiences. While our menu is packed with nutritious, good-for-you vegetables, whole grains, and proteins, we never sacrifice flavor. You may not notice the difference, but it's there.

- We use seasonal, locally grown, organic produce as often as possible. It tastes better and is more nutritious.
- Our seafood is wild or sustainably harvested. Our Black Cod from Alaska has more Omega-3s than salmon.
- We use natural, hormone and antibiotic-free chicken, turkey and natural angus beef.
- · We use healthy fats like extra virgin olive oil and expellier pressed canola oil.
- · We use minimal dairy in our recipes; what we do use is all organic.
- Most of our pastas are wheat free and made from brown and white rice.
- Our pizza crusts and pita breads are made in-house with organic flour, spelt and flax seed.
- We offer biodynamic, organic and sustainable wine.
- We are the only restaurant in the nation to provide Olivello Juice, an extract from sea buckthorn berries. Olivello is full of powerful natural anti-oxidants and other protective phytonutrients. (You can find this ingredient in Andy's Elixir, Medicine Man, and Orange Olivello Sorbet with Fresh Berries.)
- We offer 13 vegetarian, 5 vegan, and 10 gluten-free items on our menu.
- We purify our own bottled water in-house using Natura Water System, which eliminates plastic bottle waste.
- We offer farro, a true whole-grain dish, which is delicious and slow digesting (low glycemic load).
- Our house-made natural sodas and fresh juice drinks are sweetened with either agave nectar or honey, they are full of health-protective compounds and have less impact on blood sugar.
- For those who want a noncoloric sweetener, we offer a natural alternative that will not undermine your health: erythritol.
- We put delicious, organic plum tomatoes from Tuscany on our pizzas.

## True Food



## **FASHION ISLAND 451 NEWPORT CENTER DRIVE** NEWPORT BEACH, CA

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INDEX OF DRAWINGS PROJECT DATA PROJECT LOCATION TITLE SHEET, INDEX OF DRAWINGS, PROJECT DATA & VICINITY MAP T2 EXITING, SQAURE FOOTAGE & SITE PLAN SP1 SPECIFICATIONS SP2 SPECIFICATIONS SP3 SPECIFICATIONS & ACCESSIBILITY NOTES SP4 RESPONSIBILITY SCHEDULE, WALL TYPES & DOOR TYPES & SCHEDULE SP5 WINDOW SCHEDULE & DETAILS DLO DEMOLITION FLOOR PLAN D2.0 DEMOLITION REFLECTED CEILING PLAN FILL PUTER BANGL BE DO ACCOMPRISHED WITH, BUT NOT LINEARD TO, THE MERCHANDING OF THE POLICY DAY OF CHECK STATE AND LINEAR COURS HAVING ARRESTS THE A10 DIMENSIONED FLOOR PLAN ALI BASEMENT FLOOR PLAN A2.0 REFLECTED CEILING PLAN A21 ROOF PLAN A3.0 STOREFRONT ELEVATIONS A4.0 STOREFRONT SECTIONS A4.1 STOREFRONT SECTIONS -48 M.P. DVPD BY 8 + 276 AS.O SECTIONS AND DETAILS -----Extraction of the process of the con-A5.1 WALL SECTIONS VICINITY MAP MLO MECANICAL PLANS THE RESIDENCE OCCUPANT MADE AND REMARKS PARKE AND M2.0 MECHANICAL SCHEDULES TOTAL DESIGNATION CONT. SHEETING TOTAL FRANCE FOR A PROPERTY OF LIBERTY AND ADDRESS OF THE STATE STATE OF THE PROPERTY OF THE PROPERTY OF THE STATE M3.0 MECHANICAL DETAILS THE TABLE 'S' OF CHIPTER & SOUTH ONE.

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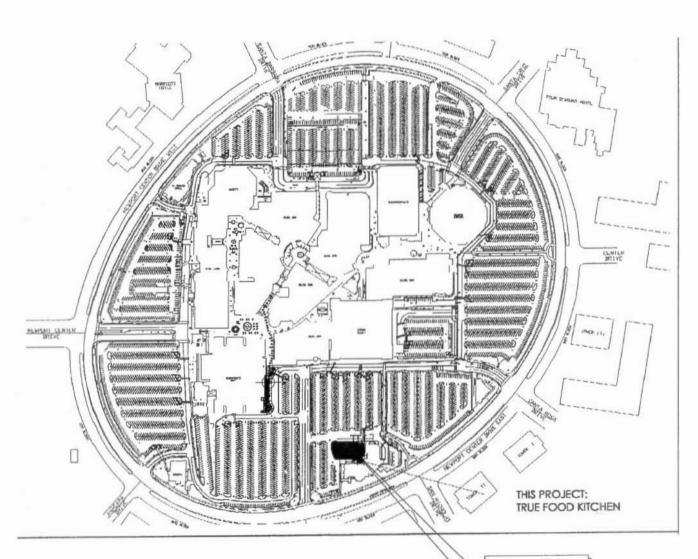
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PROJECT DATA & VICINITY MAP

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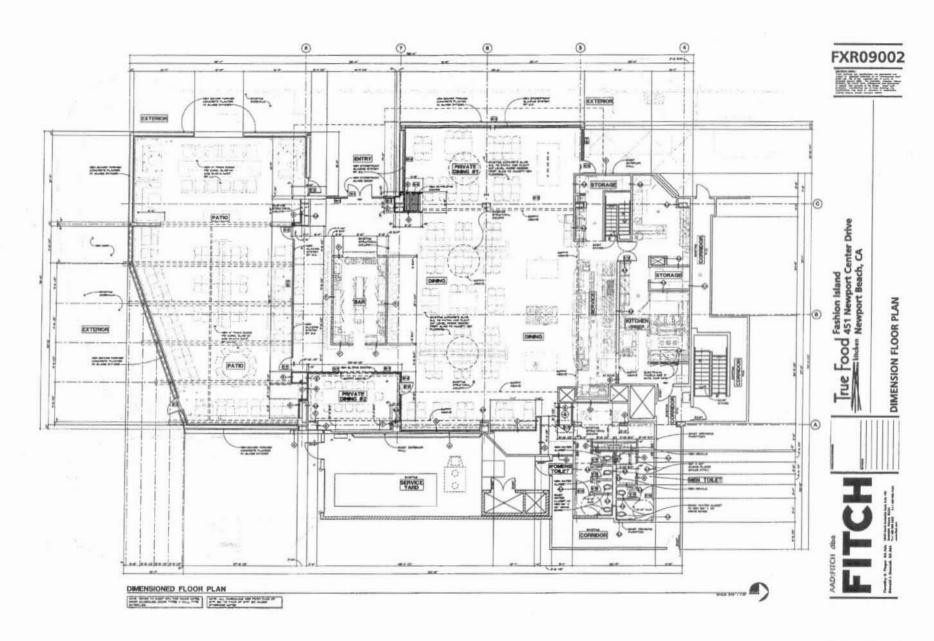


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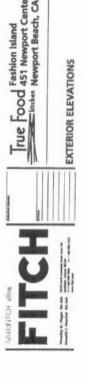
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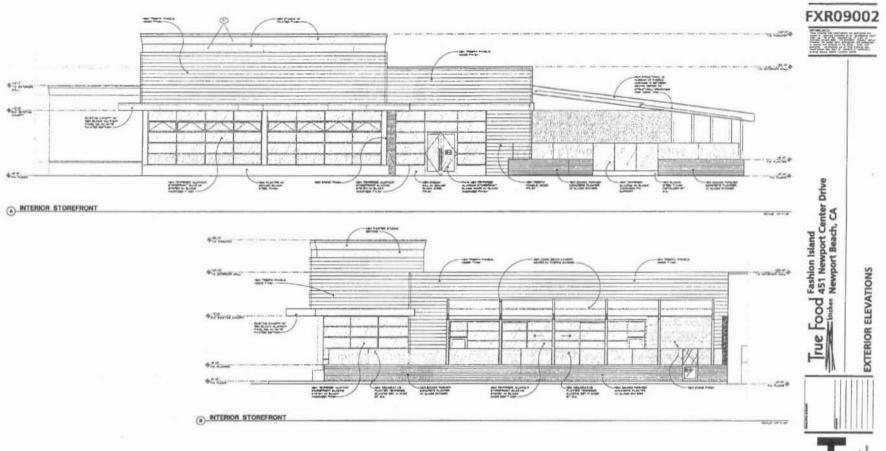
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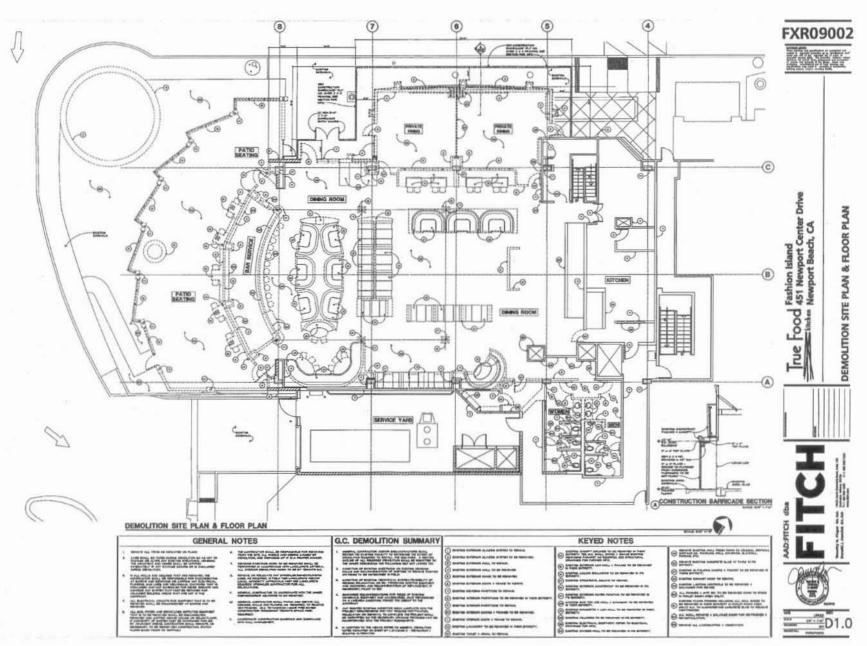




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