

**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Kimberly Brandt, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending August 26, 2011

ACTIONS TAKEN AT August 24, 2011 ZONING ADMINISTRATOR HEARING

Item 1: **Wahoo's Fish Taco - Minor Use Permit** No. UP2011-025 (PA2011-137)
401 Newport Center Drive, A101

This item was approved.

Council District 5

On behalf of Kimberly Brandt, Community Development Director



Patrick J. Alford, Planning Manager

APPEAL PERIOD: The applicant or any interested party may appeal the decision of the Community Development Director and division staff to the Planning Commission by submitting a written appeal application to the Community Development Director in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Email Brian Haas, NBPD
Sgt. Chuck Freeman, NBPD



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

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ZONING ADMINISTRATOR ACTION LETTER

Application No. Minor Use Permit No. UP2011-025 (PA2011-137)
Applicant Lamkone Restaurants, Inc., dba "Wahoo's Fish Taco"
Site Address 401 Newport Center Drive, A101
Wahoo's Fish Taco Minor Use Permit
Legal Description Parcel 2 of Lot Line Adjustment (LLA) 2008-004

On **August 24, 2011**, the Zoning Administrator approved the following: a minor use permit to allow alcoholic beverage service (Type 47, On-Sale General for Bona Fide Public Eating Place) in conjunction with a new restaurant which will occupy a currently vacant retail space (3,868 gross square feet) and will include one outdoor dining patio (622 gross square feet) within the Fashion Island Shopping Center pursuant to the PC-56 (North Newport Center Planned Community) District regulations. The proposed hours of operation are 11:00 a.m. until 11:00 p.m. Monday through Saturday and 11:00 a.m. until 10:00 p.m. on Sunday. The subject site is located in the PC-56 (North Newport Center Planned Community, Fashion Island sub-area) District. The Zoning Administrator's approval is based on the following required findings and subject to the following conditions.

Findings

1. **Finding:** The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15303 of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act.

Facts in Support of Finding:

- The Class 3 exemption includes conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project will convert a previously retail tenant space located in an existing building within the Fashion Island Shopping Center to a restaurant with an outdoor dining patio. The existing tenant space will be remodeled with approval of a tenant improvement building permit that will include minor modifications to the existing storefront.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

2. **Finding:** The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).

Facts in Support of Finding:

- The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcoholic beverages is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize any alcohol related impacts.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

3. **Finding:** The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding:

- The General Plan land use designation for the Fashion Island Shopping Center is CR (Regional Commercial), which is intended to provide retail, entertainment, service and supporting uses that serve local and regional residents. The project is a restaurant within the shopping center which will serve a selection of alcoholic beverages as part of the dining menu. This use is consistent with the CR (Commercial Regional) land use designation, which allows eating and drinking establishments as a commercial use.
 - The project is similar to currently operating establishments within the shopping center with outdoor patios, no late hours and alcohol sales as part of the dining experience, and it will be compatible with the land uses permitted within the shopping center and surrounding area.
 - The subject property is not part of a specific plan area.
4. **Finding:** The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

- The project site is located within the Fashion Island sub-area of the North Newport Planned Community (PC-56) Zoning District. Pursuant to Section II.A.1., Table 1 of the North Newport Center Planned Community District Regulations, the proposed restaurant is an eating and drinking establishment use that is permitted by right within the Fashion Island sub-area. On-site alcohol sales are allowed in conjunction with this restaurants subject to approval of a minor use permit by the Zoning Administrator.

5. **Finding:** The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding:

- The proposed use will located within an existing, vacant retail tenant space within the Fashion Island Shopping Center. The tenant space will be designed and developed for use as an eating and drinking establishment. The design, size, and operating characteristics both inside the facility and within the outdoor dining patio area will be similar to other eating and drinking facilities in the shopping center, and will be compatible with the surrounding uses within the shopping center.
- The proposed hours of operation for the restaurant and alcohol sales are 11:00 a.m. until 11:00 p.m. Monday through Saturday and 11:00 a.m. until 10:00 p.m. on Sunday. Lunch and dinner will be served within the indoor dining area and outdoor dining patio. Sales of alcohol will be in conjunction with the operation of the indoor dining area and outdoor dining patio areas.
- The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages (Attachment ZA-2 Police Department Report) have been included in the required conditions of approval, and will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
- The facility has also been conditioned to comply with the California Building Code, all requirements of the Alcoholic Beverage Control Department, and Health Department to ensure the safety and welfare of customers and employees within the establishment.

6. **Finding:** The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

- The proposed use will be located within an existing, vacant retail tenant space on the ground level within the Atrium Court area of the Fashion Island Shopping Center. The tenant space will be redesigned and developed for use as an eating and drinking establishment. The design and size of the space, and operating characteristics both inside the facility and within the outdoor dining patio area will be similar to other eating and drinking facilities in the shopping center, and will be compatible with the surrounding retail and restaurant uses within the shopping center.
 - Adequate public and emergency vehicle access, public services, and utilities are available within and provided to the tenants of the Fashion Island Shopping Center.
 - The design of the tenant improvements proposed will comply with all Building, Public Works, and Fire Codes, and will be approved by the Orange County Health Department.
7. **Finding:** Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

- The project, located within the Fashion Island Shopping Center, has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible (see Conditions of Approval and Attachment ZA-2: Police Department Report). The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots of the shopping center, during business hours, if directly related to the patrons of the establishment surrounding residents.
- Due to its location within the Fashion Island Shopping Center, a regional shopping destination, the project will serve residents of the City of Newport Beach as well as visitors to the City.
- The on-site consumption of alcoholic beverages will be incidental to the specialty eating and drinking establishment use. The quarterly gross sales of alcoholic beverages will 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 LEAD-trained employees.

- 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. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention.
- The Fashion Island Shopping Center provides adequate parking within the surface parking lots and parking structures on site for the proposed project.
- The proposed use complies with the development standards for the North Newport Center Planned Community District.

Conditions

1. The project shall be in substantial conformance with the approved site plan, floor plans, and elevations, except as noted below.
2. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.
4. A copy of this approval letter including the findings and conditions shall be blue lined into the approved sets of plans.
5. The interior floor area of the restaurant shall be limited to 3,868 gross square feet. The outdoor dining area shall be used in conjunction with the related adjacent food establishment and shall be limited to a maximum floor area of 660 gross square feet.
6. The type of alcoholic beverage license issued by the California Board of Alcoholic beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility.
7. The hours of operation for the restaurant including alcohol sales shall be limited to the following: 11:00 a.m. to 11:00 p.m., Monday through Saturday and 11:00 a.m. to 10:00 p.m. on Sunday.
8. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour and no later. 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 by the Zoning Administrator or Planning Commission.
9. Approval of this Minor Use Permit (UP2011-025) for alcohol sales in conjunction with an eating and drinking establishment does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless a subsequent use permit is approved which supersedes this approval.

10. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
11. Food from the full service menu must be made available during any "happy hour" type of reduced price alcoholic beverage promotion.
12. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
13. The outdoor patio shall be enclosed by a minimum 42 inch high planter/barrier wall with a secured gate for egress only.
14. 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.
15. 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 Zoning Administrator may review, modify or revoke this Minor Use Permit in accordance with Chapter 20.68 of the Zoning Code.
16. 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.
17. 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 the Permit.
18. Should the alcohol license be transferred or the business be sold or otherwise come under different ownership, any future license holders, operators, owners, or assignees shall be notified in writing of the conditions of this approval by either the current licensee, business operator, 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 Division acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this Minor Use Permit (UP2011-025, PA2011-137).

19. 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.
20. The applicant shall obtain sales tax registration and a business tax certificate prior to opening of the establishment.
21. There shall be no dancing and/or live entertainment allowed on the premises at any time.
22. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
23. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
24. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or 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.
25. Strict adherence to maximum occupancy limits is required.
26. The applicant shall post and maintain a professional quality sign (clearly visible on an outdoor patio gate/barrier), which designates the specific area where patrons may consume alcoholic beverages. The posted sign shall read, "no alcoholic beverages may be taken beyond this point."
27. 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.
28. No temporary signs including, but not limited to "sandwich" signs or balloons shall be permitted, either on-site or off-site, to advertise the proposed food establishment, unless specifically permitted in accordance with the provisions of the North Newport Center Planned Community (PC-56) sign standards or Chapter 20.42 (Sign Standards) of the Zoning 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.

29. All proposed signs shall be in conformance with the provisions of the North Newport Center Planned Community (PC-56) sign standards or Chapter 20.42 (Sign Standards) of the Zoning Code.
30. 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 provision 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

31. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches-wide by 36-inches-deep by 72-inches-high (6 feet), shall be provided inside the facility or outside of the tenant space in a readily accessible area within a portion of the screened area. If the wash-out area is provided outside of the tenant space, the enclosure shall have a raised curb or wall and closeable sides to contain the wash water generated by the use of the washout area. The wash-out area shall drain directly into the sewer system, unless otherwise approved by the Building Division and Public Works Department 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.
32. A grease collection device is required and shall be approved by the Building Division. The facility shall comply with the provisions of Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal.
33. The project shall obtain Orange County Health Department approval prior to obtaining building permits.
34. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Division.
35. The area outside the establishment 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.
36. 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.
 37. 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.
 38. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14; including all future amendments (including Water Quality related requirements).
 39. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
 40. All exits shall remain free of obstructions and available for ingress and egress at all times. 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 Division.
 41. All mechanical equipment (including roof-top 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, and shall comply with the height limitations of the designated Zoning District of the subject site.
 42. The project construction plans shall comply with all applicable State Disabilities Access requirements. Tables and chairs for the outdoor dining shall not encroach into the required handicap access area specified on the approved detailed seating plan.
 43. The project shall comply with the latest California Building Code requirements and tenant improvement plans shall be submitted to the Building Division as a part of the plan check review process to obtain all appropriate permits.
 44. Prior to the issuance of Building permits, all fees assessed by the City in conjunction with the project shall be paid.

45. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
46. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
47. This Minor Use Permit may be modified or revoked by the Zoning Administrator upon a finding of failure to comply with the conditions set forth in Chapter 20.48 of the Municipal Code, other applicable conditions and regulations governing the food establishment, or should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
48. Use Permit No. UP2010-025 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
49. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Wahoo's Fish Taco Minor Use Permit**, but not limited to, **Minor Use Permit No. UP2011-025 (PA2011-137)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the

applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD: Use Permit applications do not become effective until 14 days following the date of action. Prior to the effective date the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

By: 

Jaime Murillo, Zoning Administrator

JM/bmz

Attachments: ZA 1 Vicinity Map
ZA 2 Police Department Report
ZA 3 Plans

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Minor Use Permit No. UP2011-025
PA2011-137

401 Newport Center Drive, A101

Attachment No. ZA 2

Police Department Report

**City of Newport Beach
Police Department**

M e m o r a n d u m

August 9, 2011

TO: Benjamin Zdeba, Planning Technician

FROM: Detective Brian Haas

SUBJECT: Wahoo's Fish Taco, 401 Newport Center Drive, #A101
Use Permit No. UP2011-025 (PA2011-137).

At your request, the Police Department has reviewed the project application for Wahoo's Fish Taco, located at 401 Newport Center Drive, #A101, Newport Beach. Per the project description, the applicant is requesting a minor use permit to allow alcoholic beverage service (Type 47 On-Sale General for Bona Fide Public Eating Place) in conjunction with a new restaurant which will occupy a currently vacant retail space (3,246 gross square feet). The project will also include one outside dining patio (622 gross square feet) within the Fashion Island Shopping Center pursuant to the PC-56 (North Newport Center Planned Community) District regulations. The proposed operating hours are from 11 a.m. to 11 p.m. Monday through Saturday and 11 a.m. through 10 p.m. on Sunday.

The applicant has applied for a Type 47 (General – Eating Place) license with the Department of Alcoholic Beverage Control. This license includes beer, wine and distilled spirits for consumption on the licensed premises. The license will be conditioned appropriately to protect the health, safety and welfare of the community.

I have included a report by Crime Analyst Paul Salenko that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that this new location is within an area where the number of crimes is at least 100% higher than the average of all reporting districts in the City. Additionally, this location is also within an RD that is over the Orange County per capita of ABC licenses.

Applicant History

Wahoo's Fish Taco is a quick casual family restaurant serving healthy Mexican food with a surf related theme. This will be one of 56 locations under the Wahoo's umbrella. This Wahoo's was previously located at 1091 Newport Center Drive. The project site was previously used as a retail shop.

Recommendations

The Police Department has no objection to the operation as described by the applicant.

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Hours of Operation

The proposed hours of operation are from 11 a.m. to 11 p.m. Monday through Saturday and 11 a.m. through 10 p.m. on Sunday.

Security

The building and surrounding area is patrolled by Fashion Island Security.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Additional Comments

For the purposes of this application, staff may also want to consider establishing conditions that would require a Special Event Permit. A Special Event Permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation.

For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Other Recommended Conditions

In addition, the Police Department has determined that the following conditions would be appropriate for the Conditional Use Permit for the business:

1. Approval does not permit Wahoo's Fish Taco 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. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.

3. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
4. 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 promotions after 9 p.m.
5. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
6. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
7. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
8. There shall be no live entertainment allowed on the premises.
9. There shall be no dancing allowed on the premises.
10. Strict adherence to maximum occupancy limits is required.
11. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.

If you have any questions, please contact Detective Brian Haas at (949) 644-3709.



Brian Haas, ABC/Vice/Intelligence
Detective Division



Craig Fox, Captain
Detective Division Commander

City of Newport Beach

Police Department

Memorandum

August 8, 2011

TO: Benjamin M. Zdeba, Planning Technician

FROM: Paul Salenko, Crime Analyst

SUBJECT: Alcohol Related Statistics

At your request, our office has reviewed police services data for the **Wahoo's Fish Taco at 401, Newport Center Drive #A101**. This area encompasses our reporting district (RD) number 39 as well as part of Census Tract 630.08. This report reflects **City of Newport Beach** crime data for calendar year 2010, which is the most current data available.

Calls for Service Information

City wide there were approximately 65,807 calls for police services during this time, of which 5,067 were in **RD39**. A "call for service" is, *any contact of the police department by a citizen which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, and animal control calls, etc.

Crime Information

There were 5,845 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,756 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,089 were Part Two crimes. The Part One crime rate for the entire city during this same period was 3,191.81 per 100,000 people. The national Part One crime rate was 3,465.52* per 100,000 people.

Crimes	RD 39	Newport Beach	California*	National*
Part 1	178	2,884	1,184,073	10,639,369
Part 2	115	3,350	N/A	N/A
Part 1 Crime Rate	19,454.43	3,297.31	3,203.52	3,465.52

The number of active ABC licenses in this RD is 47**

Per capita ratio 1 license for every 19 residents.

This reporting district had a total of 352 reported crimes as compared to a City wide reporting district average of 152 reported crimes. This reporting district is 200 crimes over or 131.90% above the City wide reporting district average. This location is within an RD that is over the Orange County per capita average of ABC licenses**.

Arrest Information

There were 40 DUI arrests and 19 Plain Drunk arrest in this area during this same period as compared to 1,272 for the entire city. This RD amounts to 4.64% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 2009 had been drinking at the time of their arrest.

Arrests (DUI/Drunk)	RD 39 59	Newport Beach 1,272	California* 324,442	National* 2,095,731
Total Arrests	164	3,595	1,474,004	13,687,241

Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The two adjacent reporting districts you requested are RD 44 and RD 43

Crimes	RD 44	RD 43
Part 1	130	29
Part 2	107	14
Crime Rate	2,205.93	2,580.83
Arrests (DUI/Drunk)	63	15
Total Arrests	163	33
Calls For Service	4,329	776
Number of active ABC licenses	27**	7**
Per capita ratio 1 license for every	218* residents	161* residents.

Note: It is important to remember that when dealing with small numbers any change greatly affects any percentage changes.

The population figure used for the Crime Rate was 86,252.

*These numbers are from the 2009 Uniform Crime Reports, which is the most recent edition.

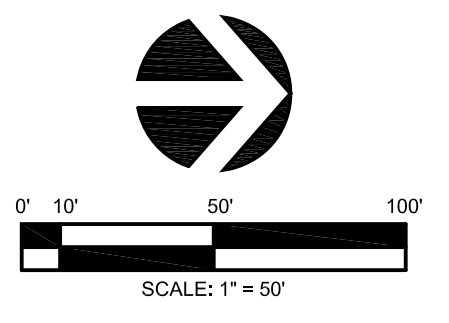
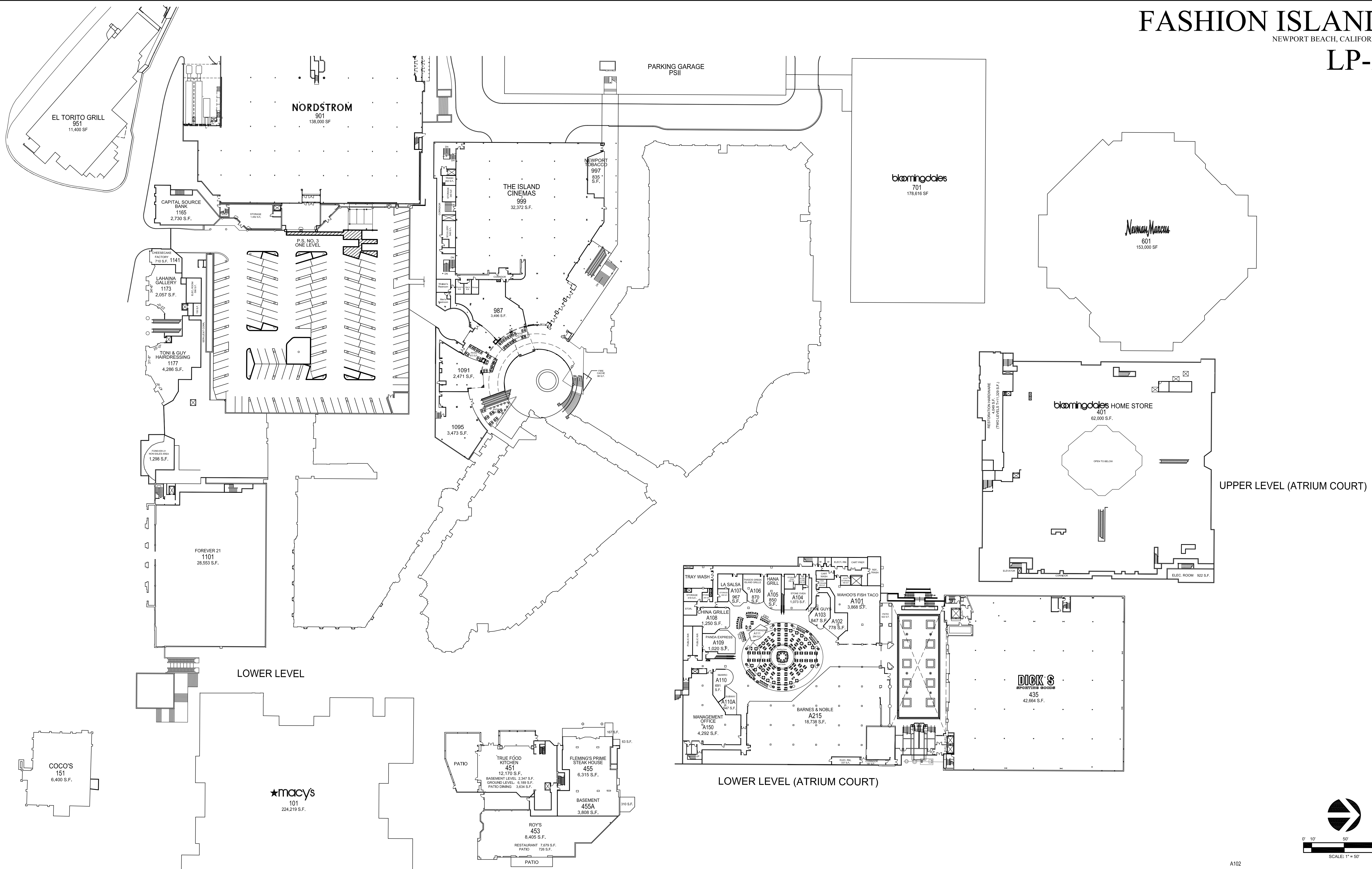
The **number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2009 the Orange County average of active, retail ABC licenses was 1 license for every 542 residents. (5,589 licenses and a population of 3,026,786)

If you are in need of any further assistance, please contact me at (949) 644-3791.

Paul Salenko
Crime Analysis Unit

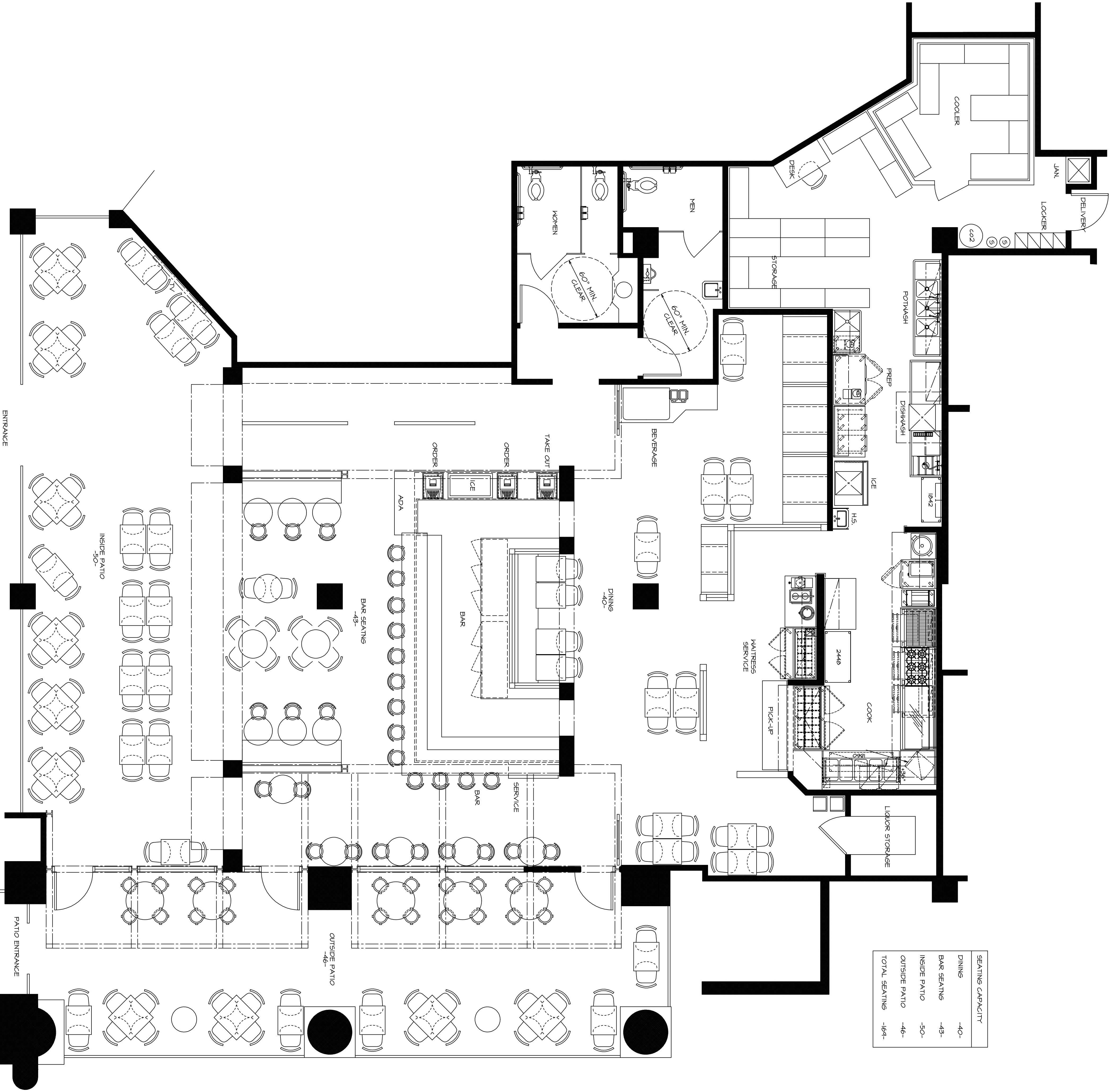
Attachment No. ZA 3

Plans

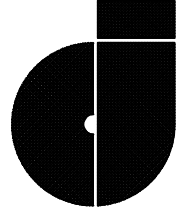


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THIS IS A SCHEMATIC PLAN INTENDED ONLY TO SHOW THE GENERAL LAYOUT OF THE SHOPPING CENTER AND THE APPROXIMATE LOCATION OF THE PREMISES. LANDLORD, AT ANY TIME, MAY CHANGE THE SHAPE, SIZE, LOCATION, NUMBER AND EXTENT OF THE IMPROVEMENTS SHOWN HEREON. AS WELL AS ANY ADDITIONAL IMPROVEMENTS, LANDLORD MAY ELIMINATE, ADD OR RELOCATE ANY IMPROVEMENTS TO ANY PORTION OF THE SHOPPING CENTER, INCLUDING, WITHOUT LIMITATION, BUILDINGS, PARKING AREAS OR STRUCTURES, ROADWAYS, CURB CUTS, TEMPORARY OR PERMANENT MOUNTAINS, DISPLAYS OR STANDS, AND MAY ADD LAND TO AND/OR WITHDRAW LAND FROM THE SHOPPING CENTER. P. PLAN NOT TO SCALE.



fixtures & furnishings plan

PR-2	 COASTLINE DESIGN INC. COMMERCIAL INTERIORS & FURNISHINGS 113 E. 23rd Street • Costa Mesa, CA 92627 (949) 722-8181 • FAX (949) 722-9035	Job 21021 FEB. 24, 2011	revisions	<h1 style="margin: 0;">Wahoo's Fish Taco</h1> <h2 style="margin: 0;">ATRIUM COURT</h2>
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