

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 Brenda Wisneski, Deputy Community Development Director
- SUBJECT: Report of actions taken by the Planning Division staff for the week ending February 24, 2017.

COMMUNITY DEVELOPMENT DIRECTOR OR PLANNING DIVISION STAFF ACTIONS (Non-Hearing Items)

Item 1: American Junkie Docks – Staff Approval No. SA2016-023(PA2016-203) Site Address: 2406 Newport Boulevard, American Junkie

This is a revised Action Report from February 10, 2017

Action: Approved February 10, 2017 and effective February 24, 2017

Council District 1

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION 100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915 (949) 644-3200 Fax: (949) 644-3229 www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

APPLICATION:	Staff Approval No. SA2016-023 REVISED (PA2016-203)
APPLICANT:	Arlyne Newport LLC, Josh Royal
LOCATION:	2406 Newport Boulevard American Junkie
LEGAL DESCRIPTION	Parcel No 1 of Resubdivision No. 375

On <u>February 24, 2017</u>, the Community Development Director approved a revision to Staff Approval No. SA2016-023. This approval is based on the following findings and conditions of approval. Staff Approval No. SA2016-023 was originally approved on February 10, 2017. Revisions were required to correct the parking ratio referenced in Section II and to update Condition of Approval No. 1 to allow the net public area to return to the previously approved amount (2,463 square feet) if the docks are limited to patron use only.

PROJECT SUMMARY

Determination that the guest docks located on the subject property may be used for activities not associated to the restaurant, with the approval of a Marine Activities Permit if required.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** Mixed-Use Water Related (MU-W2)
- **General Plan:** Mixed Use Water Related (MU-W2)

I. BACKGROUND

The establishment operates pursuant to Use Permit No. UP1581 which was originally approved in 1972 and was last amended in June of 1989. An Operator License was approved in 2014 when the restaurant requested an increase in its occupancy.

An amendment approved in 1979 allowed a parking credit on the basis that patrons would use the dock rather than drive. Specifically, condition of approval #4 of 1979 Use Permit Amendment reads as follows:

That should the guest docks be used for any use other than guest docks for the restaurant, the owner shall be required to provide four (4) parking spaces in a location

meeting the approval of the Planning Commission, or reduce the net public area of the restaurant accordingly.

A credit of five parking spaces was given for use of the dock for patrons only. Based on information contained within an amendment approved in 1984, the net public area in 1979 was 2,463 square feet. Based on a parking requirement of 1 space per 40 square feet of net public area, five parking spaces equates to 200 square feet. Therefore, the restaurant would be required to be limited to 2,263 square feet. Today, the net public area of the restaurant is 2,040 square feet which is 423 square feet less than assumed in 1979.

II. PROPOSED CHANGES

The applicant requests the ability to use the boat docks for uses other than for patrons of the restaurant, as referenced in Condition #4 of the 1979 Use Permit Amendment. Because the net public area of the restaurant has been adequately reduced to not require the credit of five parking spaces in accordance with Condition #4, the guest docks may be used for purposes other than restaurant patrons.

Use of the docks for uses other than for patrons, will be subject to a Marine Activities Permit.

III. FINDINGS

Pursuant to Section 20.54.070, the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, and waive the requirement for a new use permit application. This staff approval is based on the following findings and facts in support of the findings.

Finding:

A. Are consistent with all applicable provisions of this Zoning Code.

Facts in Support of Finding:

1. Use Permit No. UP1581 was amended in 1979 requiring the docks to be used by patrons of the restaurant unless the net public area of the restaurant is reduced. Per an amendment to Use Permit No. UP1581 approved in 1984, the net public area of the facility was permitted to be 2,463 square feet. Plans submitted by the applicant today, indicate the net public area is 2,040 square feet. In accordance with Condition #4 of UP1581 amended in 1979, the reduction in square footage is adequate and the docks are not required to satisfy the parking requirements of the restaurant. This staff approval has been conditioned requiring an amendment to the use permit for any increase to the net public area beyond 2,263 square feet, unless the dock area is limited to patron use only.

Finding:

B. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.

Facts in Support of Finding:

1. Use Permit No. UP1581 did not require a negative declaration or Environmental Impact Report.

Finding:

C. Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.

Facts in Support of Finding:

1. Use Permit No. UP1581 was amended in 1979 requiring the docks to be used by patrons of the restaurant unless the net public area of the restaurant is reduced. Condition #4 provides flexibility for the use of the docks provided the net pubic area is reduced accordingly. Therefore, the square footage has been reduced, therefore, the modification is consistent with the original condition.

Finding:

D. Do not result in an expansion or change in operational characteristics of the use.

Facts in Support of Finding:

1. The determination is to only allow the docks to be used for uses other than patrons, subject to approval of a Marine Activities Permit. The potential change in use of the docks was contemplated in Condition #4 of Use Permit UP 1581, as amended in 1979.

IV. DETERMINATION

It has been determined on the basis that the net public area of the restaurant has been reduced accordingly, that the docks may be used for uses other than patrons, with approval of a Marine Activities Permit, and that the modification is substantially consistent with Use Permit No. 1581.

V. CONDITIONS OF APPROVAL

1. The net public area of the facility shall be limited to 2,263 square feet unless the dock area returns to patron use only. An amendment to the Use Permit is required if the net public area is increased over 2,463 square feet.

- 2. Any commercial use of the docks shall require approval of a Marine Activities Permit which is subject to review of the Community Development Department to verify that all applicable Zoning Code regulations have been addressed.
- 3. 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 American Junkie Docks including, but not limited to, the Staff Approval SA2016-023. 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.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:

AICP, Deputy Director Brenda Wisneski.

Attachments: CD

- CD 1 Vicinity Map
- CD 2 Use Permit 1581, Conditions of Approval
- CD 3 Existing Floor Plans depicting net public area

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval SA2016-023 PA2016-203

2406 Newport Boulevard

Attachment No. CD 2

Use Permit 1581, Conditions of Approval

Hooter's Restaurant - Use permit 1581 (Formally Red Onion)

- 12-7-72 PC Approved: Construct restaurant w/ live entertainment
- 9-6-73 PC <u>Approved</u>: Increase occupancy load and permit valet parking
- 5-5-77 PC <u>Approved</u>: Remodel and expand 2nd floor, accept off-site parking agreement
- 1-18-79 PC <u>Approved</u>: Allow dock spaces or in-lieu parking fees to be used as an alternative to providing the required off-site parking agreement (43 on-site spaces; dock spaces give a max credit of 5 parking spaces)
- 6-14-82 CC <u>Denied</u>: Expand net public area of 2nd lounge area and accept an of-site parking agreement for the additional req'd spaces.
- 6-21-84 PC <u>Approved</u>: Expand 2nd floor dining/bar area by 84 sq.ft., and allow the payment of an annual in-lieu parking fee for 3 parking spaces. (Per Staff Report, 2,463 sq. ft. existing, plus 84 sq. ft. expansion = 2,547 sq. ft. net public area allowed)
- 6-22-89 PC <u>Approved</u>: Add dancing in conjunction with live entertainment located in upstairs lounge area. Said dancing will be limited to the hours of between 10pm and 1:30 am nightly, after the kitchen and dining areas closed.
- 5-22-95 CC <u>Approved</u>, <u>but expired and no longer possible</u>: Increase net public area by adding an outdoor dining area on street side of building. Additionally, permit the expansion of parking lot onto adjoining property and the approval of an off-site parking agreement for expanded parking; and approval to transfer of development rights from the off-site parking area to the restaurant.

Use Permit 1581 (Hooter's) Applicable Conditions

June 22, 1989 Conditions

- 1. That development shall be in substantial conformance with the approved plot plan and floor plans, except as noted below.
- 2. That the sound from the live entertainment and dancing shall be confined to the interior of the structure; and further that all windows and doors within the restaurant shall be closed when live entertainment and dancing are conducted on the site.
- 3. That all previous applicable conditions of approval for Use Permit No. 1581 (Amended) shall be fulfilled.
- 4. That a minimum of one parking space for each 35 square feet of "net public area" (i.e. 45 spaces) shall be provided for the proposed use of the lounge and lobby area for the restaurant and that any proposed increase in the size of the area devoted to dancing or the bar area shall require the approval of an amendment to the use permit.
- 5. That the hours of operation for the proposed dancing shall be limited from 10:00 p.m. to 1:30 a.m. nightly.
- 6. That the dining area on the first floor shall be closed to the public after 10:00 p.m. daily if dancing is provided on the second floor.
- 7. That the entire site shall be maintained in a clean and orderly manner.
- That no outdoor loudspeaker or paging system shall be permitted in conjunction with the proposed operation.
- 9. That the applicant shall obtain Coastal Commission approval of this application prior to initiating the proposed dancing.
- 10. All applicable conditions of approval shall be implemented prior to the initiation of the proposed dancing.

- 11. That a Cafe Dance Permit for the proposed dancing shall be approved by the City. The dance floor shall be increased to a minimum size of 400 sq.ft. unless said permit is approved for a smaller floor.
- 12. That the required handicapped parking space shall be relocated to its original site adjacent to the building. Said parking space shall be used solely for handicapped self-parking and shall be identified by one handicapped sign on a post and one handicapped sign on the pavement.
- 13. That the shrubbery in the planters adjacent to Newport Boulevard be replanted or trimmed to provide sight distance in conformance with City Std. 110-L and as approved by the Public Works Department.
- 14. That the Planning Commission 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 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.
- 15. That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

June 21, 1984 Applicable Conditions

- 4. That employees of the restaurant facility shall park in the Municipal parking lot at all times.
- 6. That three (3) in-lieu parking spaces shall be purchased from the City on an annual basis for the duration of the restaurant use and that the annual fee for said parking shall be in accordance with Section 12.44.125 of the Newport Beach Municipal Code. The Applicant is put on notice that the fees for in-lieu parking permits may be subject to change, and that change may increase substantially in the future.
- 7. That all previous applicable conditions of approval for Use Permit No. 1581 (Amended) shall be fulfilled.
- 9. That the handicapped parking space indicated on the plot plan shall be accessible at all times to vehicles of handicapped persons during regular hours of operation of the restaurant facility.

January 18, 1979 Applicable Conditions

- 2. That a maximum credit of 5 parking spaces be given for the proposed guest dock facilities.
- 3. That the entire dock facility bayward of the restaurant shall be maintained only for patrons of the Red Onion Restaurant and shall be so posted. No overnite mooring shall be permitted.
- 4. That should the guest docks be dded for any use other than guest docks for the restaurant, the owner shall be required to provide 4 parking spaces in a location meeting the approval of the Planning Commission, or reduce the net public area of the restaurant accordingly.
- 5. All other applicable conditions of Use Permit No. 1581 shall remain in effect.

May 5, 1977 Applicable Conditions

5. A parking attendant (or attendants) shall be provided during all hours of operation of the Red Onion Restaurant facility.

September 6, 1973 Applicable Conditions

- That parking attendants be provided during all hours of operation of the restaurant. All parking spaces arranged perpendicular to the side property lines shall be set back one foot and shall be provided with wheel stops. All spaces shall be marked with approved traffic markers or painted white lines not less than four inches wide.
- That all of the conditions of the Harbor Permit, as well as additional recommendations of the U. S. Army Corps of Engineers and the California Regional Water Quality Control Board, be fulfilled.
- 4. That all public improvements, including sidewalks and curb cuts, be provided in a manner satisfactory to the Public Works Director.
- 5. That a landscape plan be approved by the Director of Community Development.
- That all signs be approved by the Director of Community Development.
- 8. That the applicant shall be responsible for all necessary precautions to protect the waters of the bay during demolition of existing structures and construction of all new structures.
- 9. That all storage or trash shall be shielded from view within a building or within an area enclosed by a wall not less than six feet in height.

December 21, 1972 Applicable Conditions

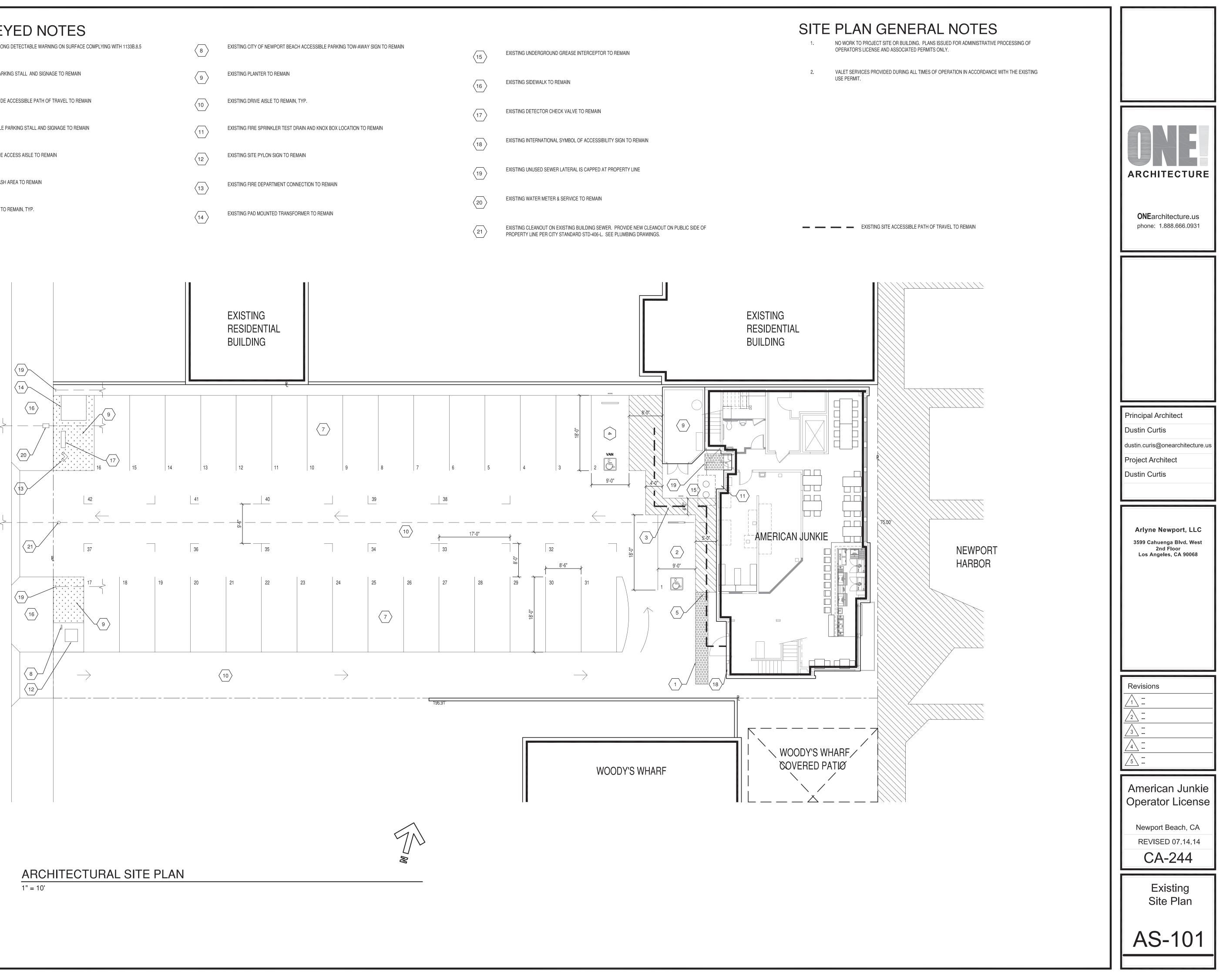
7. That the alteration or construction of docks, slips and piers bayward of the bulkhead be subject to a separate Harbor Permit and the approval of the Marine Safety Department.

Attachment No. CD 3

Existing Floor Plans depicting net public area

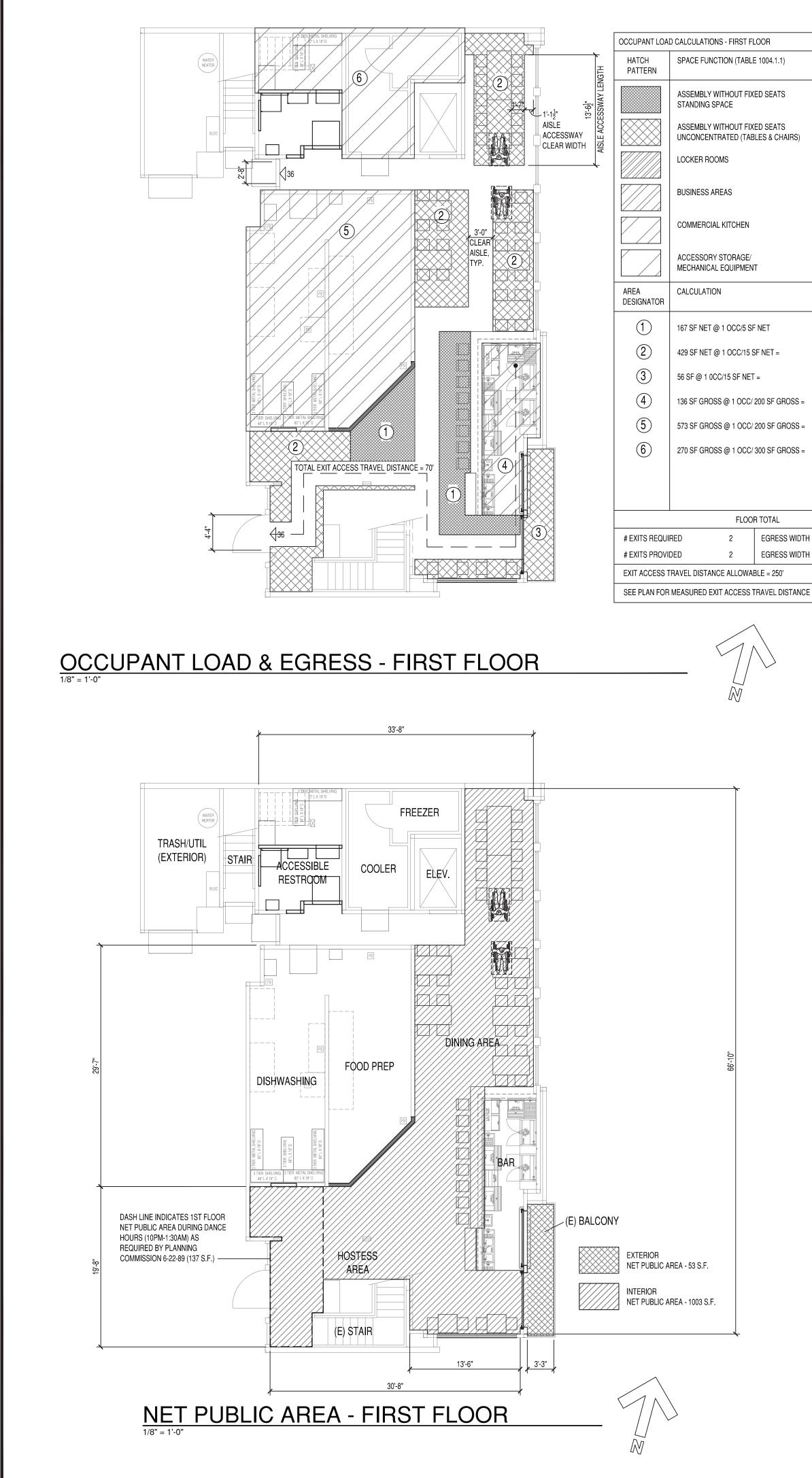
SITE PLAN KEYED NOTES

$\langle 1 \rangle$	EXISTING 36" WIDE X 22' LONG DETECTABLE WARNING ON SURFACE COMPLYING WITH 1133B.8.5	8	EXISTING CITY
2	EXISTING ACCESSIBLE PARKING STALL AND SIGNAGE TO REMAIN	9	EXISTING PLA
3	EXISTING MINIMUM 48" WIDE ACCESSIBLE PATH OF TRAVEL TO REMAIN	(10)	EXISTING DRIV
4	EXISTING VAN ACCESSIBLE PARKING STALL AND SIGNAGE TO REMAIN	$\langle 11 \rangle$	EXISTING FIRE
5	EXISTING MINIMUM 5' WIDE ACCESS AISLE TO REMAIN	(12)	EXISTING SITE
6	EXISTING ENCLOSED TRASH AREA TO REMAIN	(13)	EXISTING FIRE
$\langle 7 \rangle$	EXISTING PARKING AREA TO REMAIN, TYP.	14	EXISTING PAD

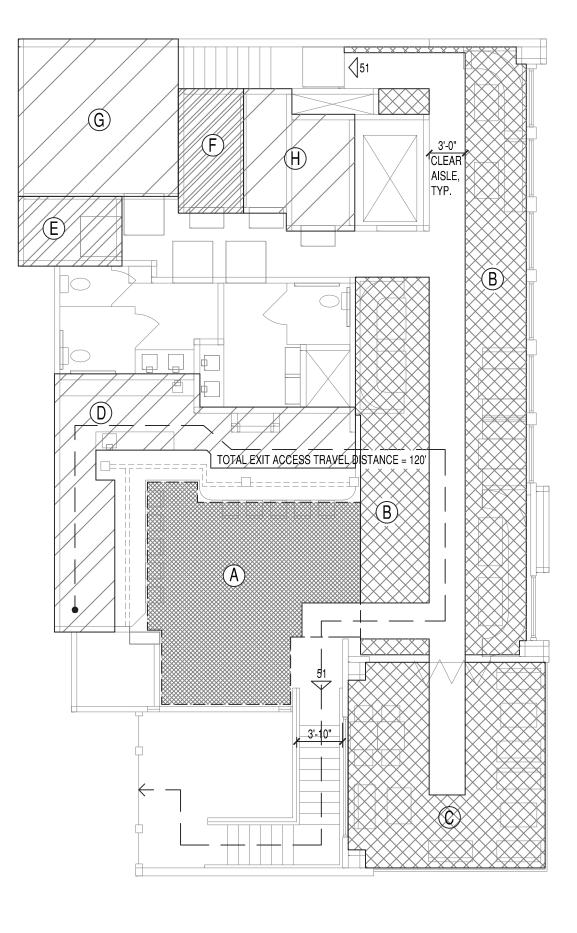


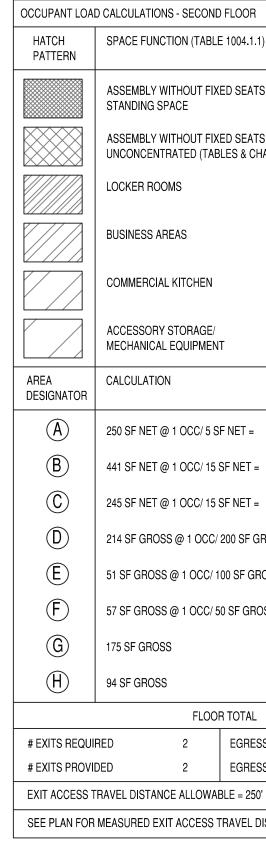
NEWPORT BLVD.



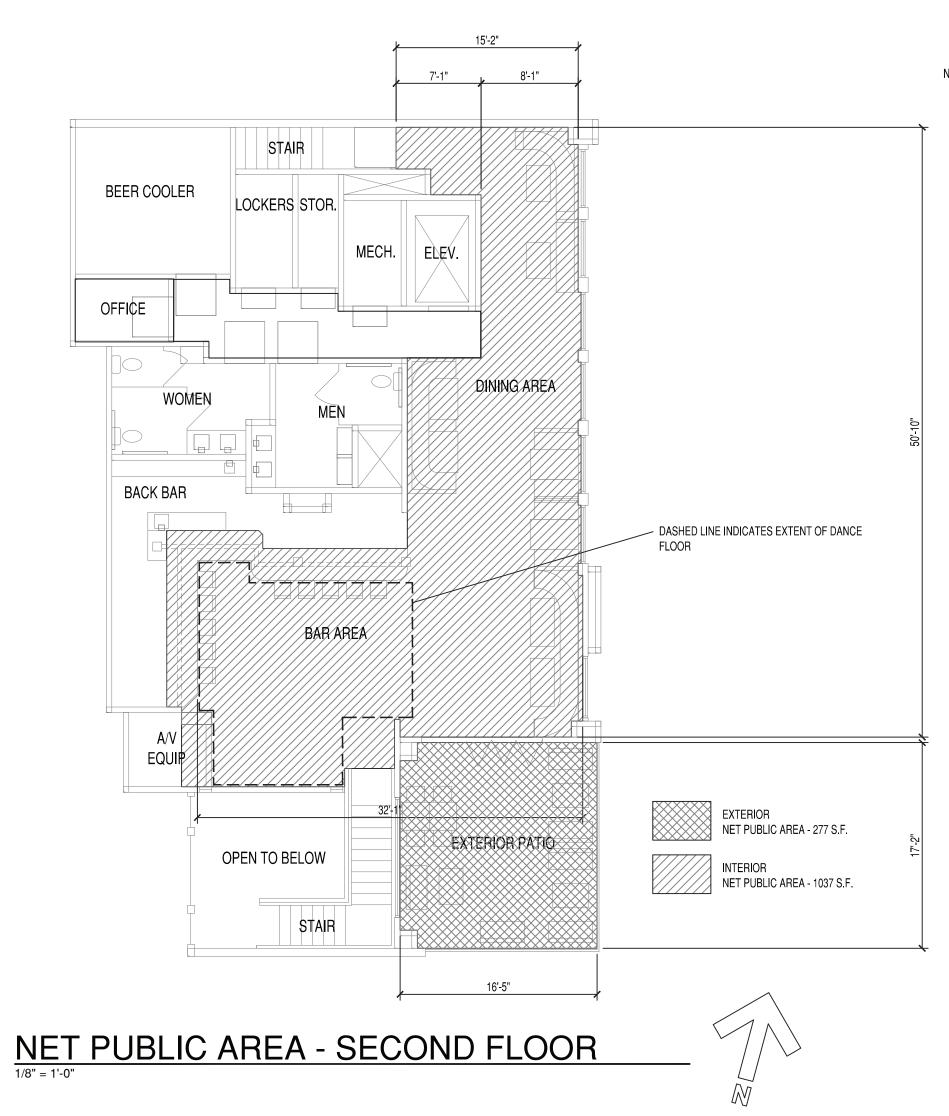


INS - FIRST FLOOR			
CTION (TABLE	TION (TABLE 1004.1.1) FLOOR AREA IN PER OCCUPANT		
WITHOUT FIXED SEATS SPACE		5 NET	
WITHOUT FIXED SEATS TRATED (TABLES & CHAIRS)		15 NET	
OMS		50 GROSS	
AREAS		100 GROSS	
AL KITCHEN		200 GROSS	
Y STORAGE/ AL EQUIPMENT		300 GROSS	
N		DESIGN OCCUP. LOAD	ANT
@ 1 OCC/5 SF	NET	34 OCCUPANTS	
@ 1 OCC/15 SF NET =		29 OCCUPANTS	
CC/15 SF NET =		4 OCCUPANTS	
SS @ 1 OCC/ 200 SF GROSS =		NOT INCLUDED	
SS @ 1 OCC/ 200 SF GROSS =		3 OCCUPANTS	
SS @ 1 OCC/	300 SF GROSS =	NOT INCLUDED	
FLOOF	R TOTAL	70 OCCUPANTS	
2	EGRESS WIDTH F	REQUIRED	14.0"
2	EGRESS WIDTH F	ROVIDED	80"
	3LE = 250'		
XIT ACCESS T	RAVEL DISTANCE		





OCCUPANT LOAD & EGRESS - SECOND FLOOR



i		
.1)	FLOOR ARE/ PER OCCUP	
TS	5 NET	
TS HAIRS)	15 NET	
	50 GROSS	
	100 GROSS	
	200 GROSS	
	300 GROSS	
	DESIGN OCC LOAD	UPANT
	50 OCCUPAI	NTS
=	30 OCCUPAI	NTS
=	17 OCCUPAI	NTS
GROSS =	NOT INCLUE	DED
ROSS =	1 OCCUPAN	т
ROSS =	NOT INCLUE	ED
	ACCESSOR` (NO OCCUP)	
-	98 OCCUPAI	NTS
SS WIDTH F	REQUIRED	29.4"
SS WIDTH F	PROVIDED	88"
60'		
DISTANCE		

FIRST FLOOR	70 OCCUPANTS
SECOND FLOOR	
BAR AREA/DINING	80 OCCUPANTS
EXTERIOR PATIO	17 OCCUPANTS
BACK OF HOUSE AREAS	1 OCCUPANT
TOTAL OCCUPANT LOAD	168 OCCUPANTS

TOTAL OCCUPANT LOAD	168 OCCUPANTS
ALLOWABLE OCCUPANT LOADS PER CHIEF OF POLICE OPERATOR LICENSE NO. OL2014-005 (PA2014-090)	
FIRST FLOOR	70 OCCUPANTS
SECOND FLOOR	73 OCCUPANTS
TOTAL OCCUPANT LOAD	143 OCCUPANTS

NET PUBLIC AREA - 959 SF

NET PUBLIC AREA - 1037 SF

ZONING INFORMATION

- A. ZONING DISTRICT: MU-W2 MIXED-USE WATER RELATED
- B. NET PUBLIC AREA (EXTERIOR PATIOS NOT INCLUDED):
- (INTERIOR) FIRST FLOOR = 1003 S.F. + SECOND FLOOR = 1037 = 2040 S.F.
- (EXTERIOR) FIRST FLOOR = 53 S.F. + SECOND FLOOR = 277 = 330 S.F.
- ALLOWABLE NET PUBLIC AREA PER CONDITIONS OF APPROVAL (6-21-84 PC) 2,547 SF
- C. PARKING REQUIREMENTS: (8% OF NET PUBLIC AREA EXCLUDED FOR PARKING PURPOSES DUE TO EXTERIOR PATIOS) PARKING RATE REQUIRED (NON-DANCING HOURS): 1 STALL/50 SF NET PUBLIC AREA (PER 6-22-89 PC)
 - = 2040 S.F. / 50 S.F. = 41 STALLS
 - PARKING PROVIDED (NON-DANCING HOURS): 45 STALLS (42 STALLS + 3 IN LIEU FEES)
 - PARKING RATE REQUIRED (DANCING HOURS): 1 STALL/35 SF NET PUBLIC AREA (PER 6-22-89 PC) = 1174 S.F. / 35 S.F. = 34 STALLS
 - PARKING PROVIDED (DANCING HOURS): 45 STALLS (42 STALLS + 3 IN LIEU FEES)
- D. DISCRETIONARY APPROVALS: USE PERMIT #1581 (1972) & AMENDMENTS (SEE CONDITIONS OF APPROVAL SHEETS GI-003 - GI-006)

BUILDING CODE ANALYSIS

- A. NUMBER OF STORIES: 2
- B. CONSTRUCTION TYPE: V-A, FULLY SPRINKLERED (SPRINKLER SUBSTITUTED FOR ONE HOUR CONSTRUCTION)
- C. OCCUPANCY TYPE: A-2 (RESTAURANT/NIGHT CLUB)
- D. EXISTING BUILDING AREAS: 1ST FLOOR: 2,182 GROSS SF
 - 2ND FLOOR: 2,182 GROSS SF
- TOTAL EXISTING GROSS BUILDING AREA: 4,364 SF
- PATIO AS A PERCENTAGE OF BUILDING
- PATIO 330 = 8%

- PATIO 277

- PATIO 53

PLUMBING FIXTURE COUNT

(FROM ORIGINAL PLAN CHECK - NO CHANGE TO PLUMBING AREAS/OCCUPANT LOADS PROPOSED)

NET USABLE SQUARE FOOTAGE MINUS RESTROOMS, STAIRS/HALLWAYS AND STORAGE/UTIL ROOMS = 2,160 NSF / 30 OCC. PER NSF = 72 OCCUPANTS USED FOR FIXTURE COUNT.

PLUMBING COUNT: REQUIRED 36 WOMEN 36 MEN PERSONS WATER CLOSETS 1 FOR 1-50 1 FOR 1-50 1 FOR 1-150 LAVS 1 FOR 1-150 -1 FOR 1-150 URINALS --DRINKING FOUNTAIN -PROVIDED WATER CLOSETS MEN WOMEN PERSONS LAVS 2 URINALS -DRINKING FOUNTAIN

ONE Architecture
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Arlyne Newport, LLC 3599 Cahuenga Blvd. West 2nd Floor Los Angeles, CA 90068
Revisions
$\frac{\boxed{1}}{\boxed{2}} = \frac{1}{\boxed{2}}$
$\frac{4}{5} = \frac{1}{2}$
American Junkie
Operator License
Newport Beach, CA
REVISED 07.14.14
Floor Plans & Calculations
AD-101