



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending August 2, 2019.

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

Item 1: Chihuahua Live Entertainment Limited Term Permit No. XP2019-005 (PA2019-095)
Site Address: 3107 Newport Boulevard

Action: Approved

Council District 1

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 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.

CC

Wendy Joe, Civilian Investigator, NBPD
Sgt. Brad Miller, NBPD



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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www.newportbeachca.gov

ZONING ADMINISTRATOR ACTION LETTER

Application No. Chihuahua Live Entertainment Limited Term Permit No. XP2019-005 (PA2019-095)

Applicant Chihuahua Brewing Company, LLC

Site Address 3107 Newport Boulevard

Legal Description Parcel 1 of Parcel Map No. 2009-135, as per map filed in Book 371, Pages 4 through 6 of Parcel Maps, in the office of the County Recorder in the County of Orange, California

On **August 1, 2019**, the Zoning Administrator approved a limited term permit (less than 90 days) to allow live entertainment for an existing eating and drinking establishment (restaurant) for a maximum of 60 days. The restaurant is proposing to have live acoustic music that is limited to the interior of the restaurant. The proposed live music would have a maximum of three performers at any given time and would only occur between 7:00 p.m. and 9:00 p.m. on Tuesdays and Saturdays only. No stage is proposed and no dancing is permitted. The limited term permit allows a trial period for the restaurant to evaluate the feasibility and effects of live entertainment. The restaurant is considering a potential amendment to its existing use permit to allow for live entertainment as part of the regular operation. The property is located in the CN (Commercial Neighborhood) Zoning District. The approval is based on the following findings and subject to the following conditions:

FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 4 (Minor Alterations to Land).*

Facts in Support of Finding:

1. Class 4 exempts minor temporary uses of land having negligible or no permanent effects on the environment. The proposed live entertainment will operate on a temporary basis and no improvements are proposed.

Finding:

- B. The operation of the limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor 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 requested limited duration use;*

Facts in Support of Finding:

1. The existing restaurant is located within a commercial center with a variety of food and retail uses. The commercial center is surrounded by residential uses to the north, south, and east, and mixed-use to the west. No late hours for live entertainment are proposed, as performances are limited to the hours of 7:00 p.m. to 9:00 p.m. on Tuesdays and Saturdays. As conditioned, the limited term permit shall be for a duration of 60 days only.
2. The limited term permit will allow for live acoustic music in the interior of the existing restaurant. Performances shall not occur outside of the restaurant, including the outdoor patio, so that noise will be confined indoors and the use will not be a detriment to the surrounding neighborhood.

Finding:

- C. The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*

Facts in Support of Finding:

1. The subject lot is approximately 3.75 acres in size. The proposed live music entertainment is proposed within an existing restaurant and will not be a detriment to other tenants within the commercial center or nearby residential and mixed-use properties.
2. The lot is bound by Balboa Boulevard to the west, Newport Boulevard to the east, 32nd Street to the north, and 30th Street to the south. The adjacent right-of-way (30th Street) separates the lot from nearby residential properties within the R-2 (Two-Unit Residential) Zoning District. Live performances shall be restricted to be inside of the restaurant and thereby, will not impact the surrounding properties.

Finding:

- D. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*

Facts in Support of Finding:

1. The subject lot has four direct driveway approaches taken from Newport Boulevard, 32nd Street, Balboa Boulevard, and 30th Street. The live music entertainment is limited to the interior of the restaurant and from the hours of 7:00 p.m. and 9:00 p.m. on Tuesdays and Saturdays and is not expected to create an impact on traffic.

Finding:

- E. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and*

Fact in Support of Finding:

1. The proposed live music entertainment is a limited, ancillary use in an existing restaurant which will enhance the dining experience of patrons in the restaurant. The limited use is not expected to generate additional vehicular traffic and parking demand to the plaza.

Finding:

- F. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The General Plan land use designation for this site is Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing restaurant, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is located in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is ancillary to the existing restaurant, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is not located within a specific plan area.

CONDITIONS

(Project-specific conditions are in italics)

1. The development shall be in substantial conformance with the approved floor plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. 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 Use Permit.
5. *The Limited Term Permit is for live music entertainment in an existing restaurant for 60 days after the permit becomes effective.*
6. *Live entertainment shall be limited to hours between 7:00 p.m. and 9:00 p.m. on Tuesdays and Saturdays.*
7. *All performances shall be acoustic only and shall not be amplified in any form. There shall be no DJ present at any time.*
8. *Live entertainment shall be limited to the interior of the restaurant only. No performances shall occur outside of the restaurant, including the outdoor dining area.*
9. *There shall be no more than three performers at any given time.*
10. *There shall be no dancing.*
11. *There shall be no stage constructed. Performances shall not block exits or exit paths of travel.*
12. *Restaurant shall not exceed maximum occupancy load of 57 persons inside and 18 persons on patio.*
13. *All doors and windows shall be closed during performances.*
14. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise level 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

15. *The applicant shall retain a qualified engineer to prepare a noise study in order to monitor the noise generated by the live entertainment and to ensure compliance with these conditions.*
16. No outside paging system shall be utilized in conjunction with this establishment.
17. Should the live entertainment become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
18. 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 **Chihuahua Live Entertainment Limited Term Permit** including, but not limited to, **Limited Term Permit No. XP2019-005 (PA2019-095)**. 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.

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Prepared by:



David S. Lee, Assistant Planner

Approved by:



Rosalinh Ung
Zoning Administrator

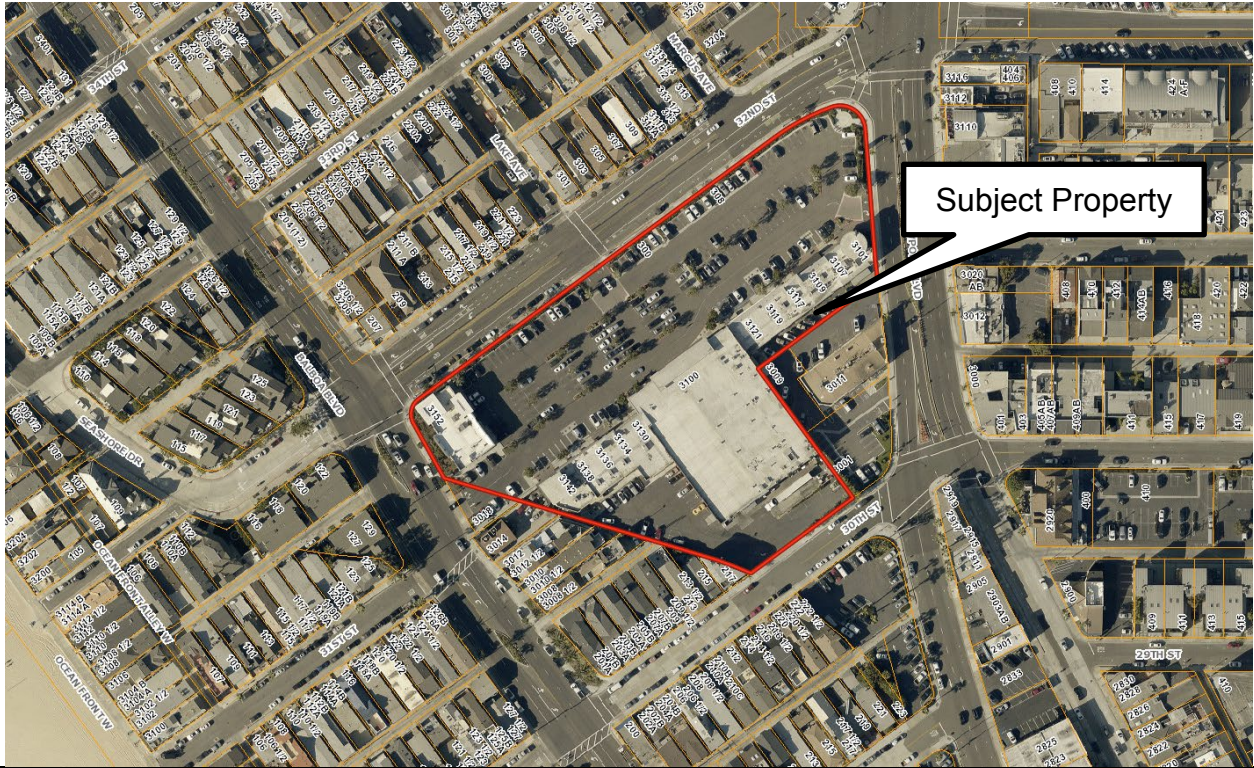
JM/dl

Attachments: ZA 1 Vicinity Map
 ZA 2 Floor Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit No. XP2019-005
(PA2019-095)

3107 Newport Boulevard

Attachment No. ZA 2

Floor Plan

COPYRIGHT NOTICE: This drawing is the property of the above named firm and shall remain the property of the above named firm. It is to be used only for the project and site specified herein. No part of this drawing may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission from the professional seal.

PROFESSIONAL SEAL

PROFESSIONAL IN CHARGE
 FRANK COOK
 PROJECT MANAGER
 BOB CERVAS

QUALITY CONTROL
 STEVE BELLNER
 DRAWN BY
 BOB CERVAS

ISSUE/REVISION RECORD
 DATE DESCRIPTION
 02/27/16 REVISED RESPONSE TO COMMENTS
 03/02/16 REVISED RESPONSE TO COMMENTS
 03/27/16 REVISED RESPONSE TO COMMENTS
 05/17/16 REVISED RESPONSE TO COMMENTS

PROJECT
CHIHUAHUA BREWING COMPANY

ADDRESS
 NEWPORT BEACH CALIFORNIA

3107 NEWPORT BLVD.
 NEWPORT BEACH, CA 92663

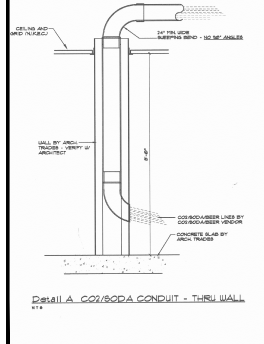
CLIENT
CHIHUAHUA BEER



PROJECT NUMBER
 20180004.0

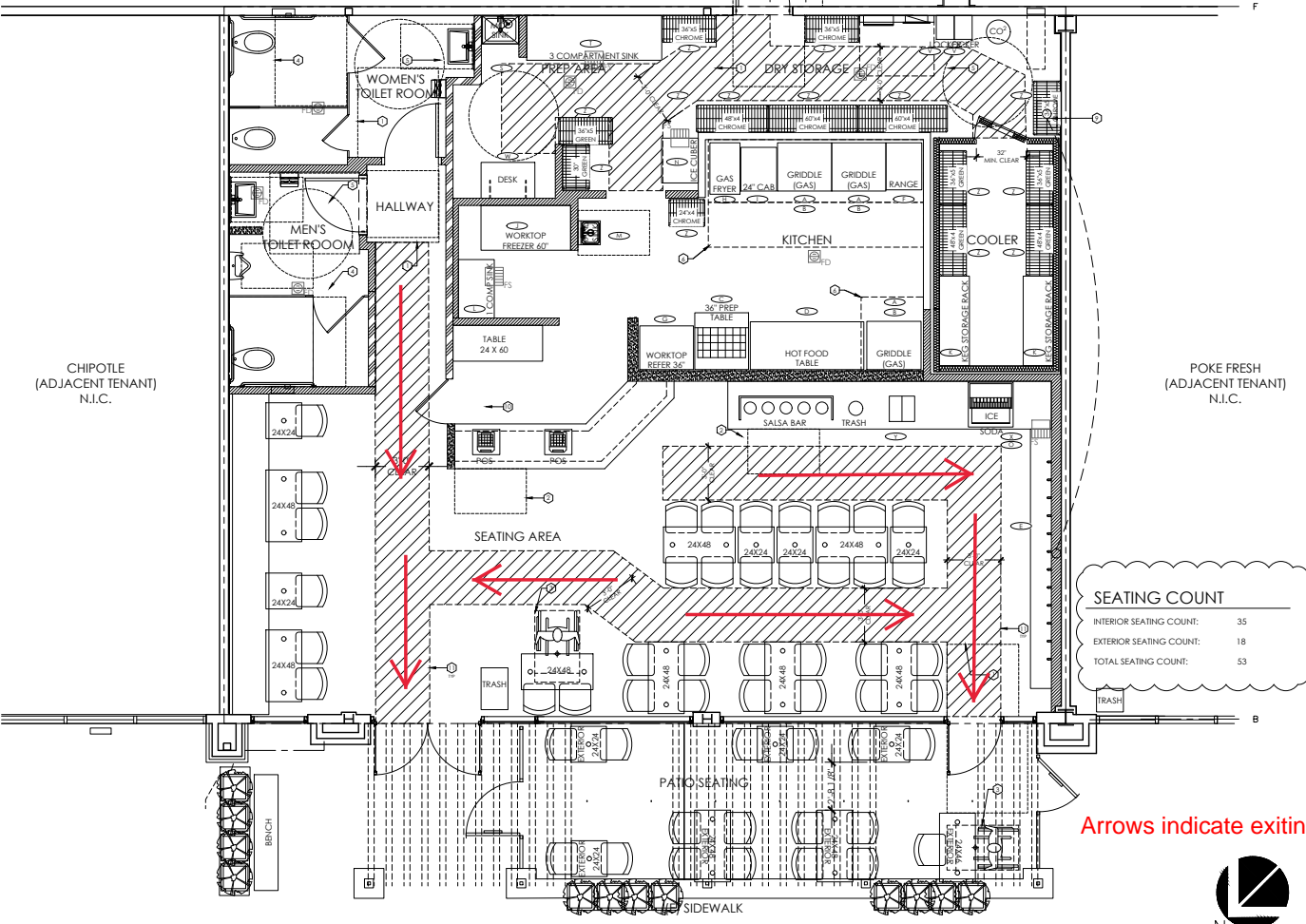
SHEET TITLE
 FIXTURE PLAN

SCALE
A05.00



SODA LINE CONDUIT DETAIL

16.2 16 15
 (E) REAR PARKING



SEATING COUNT
 INTERIOR SEATING COUNT: 35
 EXTERIOR SEATING COUNT: 18
 TOTAL SEATING COUNT: 53

Arrows indicate exiting



TAG	DESCRIPTION	MANUFACTURER & MODEL NO.
⊖	GAS COUNTERTOP GRIDDLE	JADE RANGE JGT-2436 (3)
⊖	WORKTOP COOK STAND REFRIGERATOR	BEVERAGE AIR MODEL NO. WTRCS36-1 (3)
⊖	MEGA TOP PREP - REFRIGERATOR	BEVERAGE AIR MODEL NO. SPED36HC-15M-2
⊖	HOT FOOD TABLE	SERVELL 3800S 5-WELL HOT FOOD TABLE
⊖	POUR MY BEER WALL TAP DISPENSING	
⊖	RANGE	IMPERIAL IR-4-XB
⊖	WORKTOP REFRIGERATOR	BEVERAGE AIR MODEL NO. WIF36AHC
⊖	GAS FRYER	PITCO 65C+GAS FRYER
⊖	24" WORKTABLE CABINET	CHEFS TOYS MODEL NO. 190D-S-CSTM
⊖	72" STAINLESS STEEL WORK TABLE	BEVERAGE AIR MODEL WIF60AHC
⊖	KEG STORAGE RACK	JOHN BOOS MODEL NO. ALKR-2060-X
⊖	COMPARTMENT SINK	GSW USA MODEL NO. SE18181L
⊖	HAND SINK	KROWNE METAL MODEL NO. HS-26L
⊖	ICE CUBER	MANITOWOC MODEL NO. IY-0504A (B-570 ICE BIN)
⊖	SODA DISPENSER ICE MACHINE	MANITOWOC MODEL IY0500N
⊖	NOT USED	
⊖	NOT USED	
⊖	NOT USED	
⊖	MOP SINK	JOHN BOOS MODEL NO. EMS-2016-12-X
⊖	(3) COMPARTMENT SINK	GSW USA MODEL NO. SHH182443D
⊖	NOT USED	
⊖	LOCKER	GSW USA MODEL NO. EL3-6DR
⊖	DESK	1" MDF DESKTOP WITH PLASTIC LAMINATE FINISH
⊖	SODA DISPENSER	CORNELIUS-DF 200/250
⊖	HORCHATA/ AGUA FRESCA	TBD
⊖	STORAGE RACKING	CROWN BRANDS, LLC MODEL NO. VARIES

EQUIPMENT LIST NO SCALE B

- ⊖ ADA ACCESSIBLE DOOR APPROACH SHOWN DASHED
- ⊖ ADA ACCESSIBLE COUNTER APPROACH SHOWN DASHED
- ⊖ ADA ACCESSIBLE SEATING AREA
- ⊖ CLEAR FLOOR SPACE DASHED
- ⊖ 60" MIN. TURNING CIRCLE
- ⊖ EXHAUST HOOD ABOVE
- ⊖ NOT USED
- ⊖ SODA LINES OVERHEAD FROM BOH TO DROP DOWN THROUGH WALL, G.C. TO PROVIDE CONDUIT SUFFICIENT FOR LINES.
- ⊖ BAG N. BOX SODA SYSTEM
- ⊖ TRENCH FLOOR FOR (E) ELECTRICAL & DATA LINES AND CONDUIT. SEE ELECTRICAL DRAWINGS.
- ⊖ 36" ACCESSIBLE PATH

FIXTURE PLAN KEYNOTES NO SCALE A