



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: AUGUST 10, 2015

ITEM NUMBER: PH-1

SUBJECT: AMENDMENT TO PLANNING APPLICATION PA-07-54 TO ALLOW EXTENDED EVENING HOURS UNTIL 2:00 A.M. DAILY FOR THE HUB RESTAURANT LOCATED AT 1749 NEWPORT BOULEVARD

DATE: JULY 31, 2015

FROM: PLANNING DIVISION / DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: ANTONIO GARDEA, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: ANTONIO GARDEA (714) 754-5692
antonio.gardea@costamesaca.gov

DESCRIPTION

The proposed request is an amendment to Planning Application PA-07-54, an existing conditional use permit for a restaurant located at 1749 Newport Boulevard (The Hub) that serves alcoholic beverages until 11 p.m. / 12 midnight (varies). The restaurant is located within 200 feet of residentially-zoned properties. The existing CUP limits the hours of operation to 9:00 a.m. to 12:00 midnight Friday and Saturday and 9:00 a.m. to 11:00 p.m. Sunday through Thursday. The applicant is requesting modification of the conditions of approval to allow the restaurant/bar to stay open until 2:00 a.m. on a daily basis.

APPLICANT

Matt Stone is the authorized agent for the property owner, R.D. Olson Investments II, LLC.

RECOMMENDATION

Deny the amendment request for extended hours, by adoption of Planning Commission resolution.

BACKGROUND

Project Site/Environs

The project site is located on the west side of Old Newport Boulevard near the intersection with Superior Avenue. The property is zoned as C2 (General Business District) with a General Plan land use designation of General Commercial. The abutting properties to the north are zoned as C2 and developed as commercial (retail) and restaurant uses. The abutting property to the south is also zoned as C2 but are developed with automobile repair and rental uses. The adjacent properties to the west across the alley are zoned as R2-HD (Multi-Family Residential, High Density District) and R1 (Single Family Residential District) and developed with apartments and single family homes. The undeveloped lot across the alley is also zoned as R2-HD.

The property is approximately 11,120 square feet in size and developed with a 3,000 square foot building. The building is divided into two tenant spaces, one occupied by the existing restaurant use (The Hub) and the other occupied by a retail store (Black Flys Eyewear). The restaurant is approximately 1,900 square feet in area and has an outdoor patio fronting the street that is approximately 1,200 square feet.

The site is accommodated with 13 on-site parking spaces. A minimum of 31 parking spaces are required for a 1,900 square foot restaurant with a 1,200 square foot patio. A Minor Conditional Use Permit was granted for a deviation from the shared parking requirements for the property when the outside patio was approved on February 11, 2008 under PA-07-54 for the former Aloha Grill. The deviation allowed 16 parking spaces, but the reconfiguration of the parking layout reduced the number of parking spaces provided. Although an equivalent number of parking spaces are provided, the site plan layout does not match the existing conditions.

Patrons of the restaurant use on-site parking in addition to nearby parking on Old Newport Boulevard and the City's public parking at 565 W. 18th Street (Across the street from Lions Park). The businesses along Old Newport Boulevard are legal nonconforming uses with limited on-site parking available for customers. The buildings are constructed along the property lines and on-site parking spaces are only provided from the alley which is not readily visible to customers.

Previous Entitlement

On February 11, 2008, the Planning Commission approved Conditional Use Permit PA-07-54, allowing a variance from front yard setback and an expansion of the outdoor patio, deviation from the shared parking requirements, and sales of alcoholic beverages after 11:00 p.m. The conditions of approval limited the hours of operation to address noise concerns and the potential increase of Police Department calls for service from neighboring residents. Since 2008, a total of five code enforcement complaints had been filed, all of which dealt with unpermitted banner signs. Staff report and Planning Commission Meeting Minutes are included as an attachment.

ANALYSIS

Project Description

The applicant is requesting an amendment of the conditions of approval to allow the restaurant to be open from 11 p.m. / 12 midnight until 2:00 a.m. on daily basis. The applicant states that the business is at a competitive disadvantage because they have limited hours of operation. The applicant has indicated that they have upgraded the restaurant at a significant cost and would like to be competitive with other restaurants/bars in the area. The Hub is a full menu restaurant with breakfast, lunch and dinner service.

Modification to Conditional Use Permit PA-07-54

The Zoning Code requires approval of a Minor Conditional Use Permit for establishments within 200 feet of residentially zoned properties that serve alcoholic beverages after 11:00 p.m. With the previous entitlement, the Planning Commission approved extended hours until midnight on Friday and Saturday. The conditions of approval require any changes to the operational characteristics subject to approval by the Planning Commission. The applicant has submitted the following list of other restaurants and bars that remain open past 11:00 p.m.:

Restaurant/Bar	Hours of Operation	Location	Within 200' of Residential	Outdoor Patio
La Vida / Tavern & Bowl	11:00 a.m. – 2:00 a.m.	The Triangle		X
Black Knight / Saddle Ranch Chop House	9:00 a.m. – 2:00 a.m.	The Triangle		X
The Yard House	11:00 a.m. – 1:15 a.m.	The Triangle		
H2O Sushi & Izakaya	11:30 a.m. – 12:00 a.m.	The Triangle		
Goat Hill Tavern	8:00 p.m. – 2:00 a.m.	Newport Boulevard		
The Boulevard	3:00 p.m. – 2:00 a.m.	Newport Boulevard		
Social	5:00 p.m. – 1:00 a.m.	W. 19th Street	X	X
The Harp Inn	4:00 p.m. – 2:00 a.m.	E. 17 th Street		
Wild Goose Tavern	10:00 a.m. – 2:00 a.m.	E. 17th Street	X	X
Pitfire Artisan Pizza / Pie Society	11:00 a.m. – 12:00 p.m.	E. 17th Street	X	X
Pierce Street Annex	12:00 p.m. – 2:00 a.m.	E. 17th Street	X	X
Wayfarer	5:00 p.m. – 2:00 a.m.	W. 19th Street	X	X
Turners Pub 33	12:00 p.m. – 2:00 a.m.	Old Newport Boulevard	X	X
Tiki Bar	10:00 a.m. – 2:00 a.m.	W. 17 th Street		
La Cave	4:30 p.m. – 2:00 a.m.	E. 17 th Street		
Casa Costa Mesa	8:00 p.m. – 2:00 a.m.	W. 19th Street	X	X

Staff considered the restaurant locations, patio areas, parking and access in review of the proposal. Of the list above, the seven businesses highlighted are comparable with The Hub in proximity to residential and business operation (See Attached Map). The other businesses are located along major commercial corridors with high ambient noise levels; three are within The Triangle served by a parking structure and located on upper levels.

- Social Costa Mesa has a small patio area that faces W. 19th Street with parking (valet) along the front of the building to prevent noise impacts to the neighboring residents.
- Wild Goose Tavern has an open terrace which is approximately 230 feet away from the abutting properties. The parking area is buffered with landscaping and an eight foot wall to prevent noise and glare from spilling over to the abutting homes.
- Pie Society is only open until midnight and does not have an outdoor patio. An eight foot wall also separates this business from the neighboring residents.
- Pierce Street Annex has an open patio that faces E. 17th Street. The business is separated from the residential properties by an alley, parking lot and 17th Place.
- The Wayfarer is located at the corner of the multiple tenant shopping center and has an open patio that faces W. 19th Street.
- Turners Pub 33 is separated from the adjacent residentially zoned properties by an alley and a significant grade difference. The bar has a smoking patio in front of the building as well as parking that is accessed from Old Newport Boulevard. Renovations are in plan check to alter the façade and provide an additional buffer for the neighboring residents.
- Casa Costa Mesa has an open patio that faces W. 19th Street but is buffered from residentially zoned properties to the west by adjacent commercial and industrial buildings.

Justifications for Denial

- *The proposed extended hours are not supported by the Police Department. Granting the later hours of operation may be materially detrimental to the health, safety and general welfare of the public.* The Police Department states that the number and type of calls for service implies that patrons are being over served alcoholic beverages by restaurant staff (Attachment 6). Six calls for service over a nine month period involved intoxicated persons at the location; two calls involved person who were passed out at the location. ABC regulations, specifically Section 25602(a) of the Business and Professions Code, prohibit the sale of alcoholic beverages to obviously intoxicated persons. ABC has been notified of the application and the concerns expressed by the Police Department. The Police Department recommends denial of the additional hours of operation for 'The Hub' restaurant/bar. The Crime Prevention Division provided a listing of the calls for service at the subject location for the past 9-10 months. A total of 14 calls for service were received between September 1, 2014 and July 13, 2015.
- *The extended hours of operation are not compatible with the general welfare of neighboring residences.* The change to the operating hours may result in additional noise to residences along Anaheim Avenue and Park Place. Specifically, use of the outdoor patio until 2:00 a.m. may cause noise and other disturbances to the neighboring residences. The applicant's proposal to use the 1,200 square-foot patio (with seating for 87 customers) during extended hours has potential for excess noise levels and disturbance to nearby residences. Patrons of The Hub who park their vehicles in the public parking located at 565 W. 18th Street would also use the adjoining streets to exit the area at later hours and may travel along the alley that abuts the residences. The Police Department also expressed concern

with the concentration of bars in the vicinity and has raised a concern regarding the size of the outdoor patio and its visibility from Newport Boulevard.

- The proposed change to the hours of operation would allow a use that is not in accordance with the General Plan Goals and Policies protecting existing residential uses from the encroachment of incompatible or potentially disruptive uses. Granting the request to allow the restaurant to open until 2:00 a.m. would involve intensification of use on a property where an outdoor patio is already permitted to be open until midnight. The change to the operating hours may result in audible noise from the patrons and vehicles leaving the area to residences along Anaheim Avenue and Park Place. The residents submitted a petition in opposition to the late hours and outdoor seating when the application was originally considered by the Planning Commission in 2008 (Attachment 7). The conditions of approval limited the hours of operation were imposed to minimize the potential adverse effects that service of alcoholic beverages at the subject restaurant would have on neighboring residents.
- The proposal involves an over-intensification of the use. There are a number of bars/restaurants within a one mile radius open past midnight and the proposal for extended hours of operation is more typical of a bar than a restaurant. The Hub is similar in operating characteristics to several restaurants in the area which are within an approximate one mile radius of the site. These restaurants do not have extended hours of operation. The applicant has referred to several bars with extended hours; these bars do not include a large patio area in close proximity to residential uses.
- Most businesses listed by the applicant are located along major commercial corridors or buffered from residentially-zoned properties. The restaurants/bars at the Triangle are served by a parking structure and located on upper levels which reduces potential noise impacts to residential neighborhoods. Other restaurants and bars along Newport Boulevard do not abut residentially zoned properties and have parking lots along the rear of the buildings. Likewise, the restaurants and bars along East 17th Street are buffered from the residential areas by landscaping and block walls to minimize direct impacts to nearby homes.

GENERAL PLAN CONFORMANCE

Granting the conditional use permit and minor conditional use permit will allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property. The property is zoned as C2 (General Business District) and has a General Plan Designation of General Commercial. The request to allow extended hours of operation is not consistent with the following objective of the General Plan:

- Objective LU-1F.1: Protect existing stabilized residential neighborhoods from the encroachment of incompatible or potentially disruptive uses and/or activities.

The change to the operating hours may result in an increase of incidents requiring police response, audible noise and disturbances to residences along Anaheim Avenue and Park Place from the patrons and vehicles leaving the area. Granting the additional hours would not protect the existing residential neighborhood from the encroachment of incompatible or potentially disruptive activities.

ENVIRONMENTAL DETERMINATION

Pursuant to Public Resources Code Section 21080(b) (5) and the California Environmental Quality Act (CEQA) Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out. If the Planning Commission approves the project, the project is exempt from the provisions of the California Environmental Quality Act under Section 15301 (Class 1), Existing Facilities. This exemption applies to the operation of existing public or private structures involving negligible or no expansion of use.

PUBLIC NOTICE

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. Mailed Notice. A public notice was mailed to all property owners within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property. (See attached Notification Radius Map)
2. On-site posting. A public notice was posted on each street frontage of the project site.
3. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

ALTERNATIVE

The Planning Commission may approve a change to the operating hours allowing the business to be open until midnight on a daily basis to provide consistent hours of operation. If the Planning Commission believes that the findings to support a modification to the conditional use permit can be made, Planning Commission may approve the modified conditions which are shown underlined in the attached draft resolution. The Planning Commission would have to provide the facts of finding to support the modification as deemed appropriate. Staff recommends at minimal the following conditions to address potential concerns with the extended hours of operation:

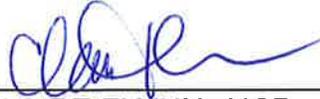
- a. Allow an additional hour of operation until midnight on a daily basis;
- b. Last call for alcohol service in the patio at least one hour prior to closing.
- c. Install surveillance cameras covering the interior and exterior of the building with six months of stored footage;
- d. Hire a security guard to be present during the evenings; and
- e. Provide proof of Responsible Beverage Service training for all servers.

CONCLUSION

Staff recommends that the request to modify the condition of approval limiting the hours of operation be **denied** based on an incompatibility with the adjacent residential uses and Police Department concerns.



ANTONIO GARDEA
Senior Planner



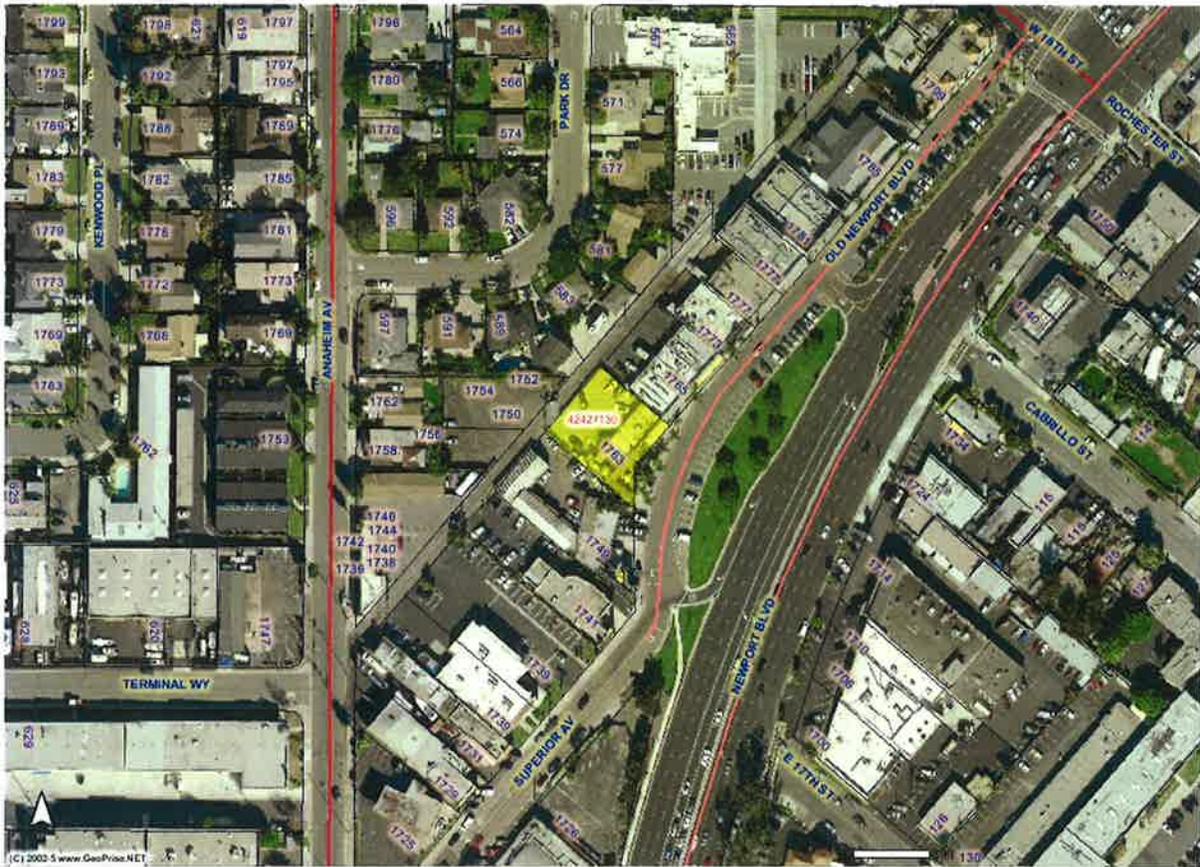
CLAIRE FLYNN, AICP
Assistant Director of Development Services

- Attachments:
1. Location Map, Zoning Map, and Restaurant/Bar List Map
 2. Notification Radius Map
 3. Photographs of Existing Site
 4. Applicant's Project Description
 5. Draft Planning Commission Resolutions and Exhibits
 6. Police Department Memorandum / Calls for Service
 7. February 11, 2008 Planning Commission Meeting Minutes and Staff Report
 8. Existing Site Plan, Floor Plan and Front Elevation

Distribution:

- Director of Economic & Development Services/Deputy CEO
- Assistant Development Services Director
- Senior Deputy City Attorney
- Public Services Director
- City Engineer
- Transportation Services Manager
- Fire Protection Analyst
- File (2)

Location



Zoning Map





ATTACHMENT 2



Map Preparer:
SUSAN W. CASE, INC.
917 GLENNEYRE ST #7
LAGUNA BEACH CA 92651
949 494 6105
susancaseinc@yahoo.com

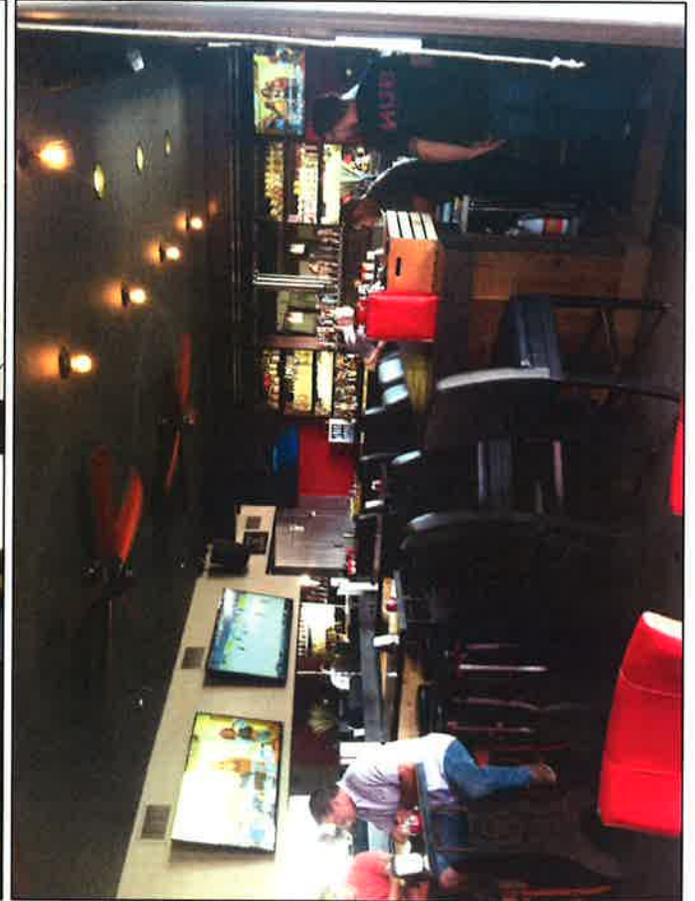
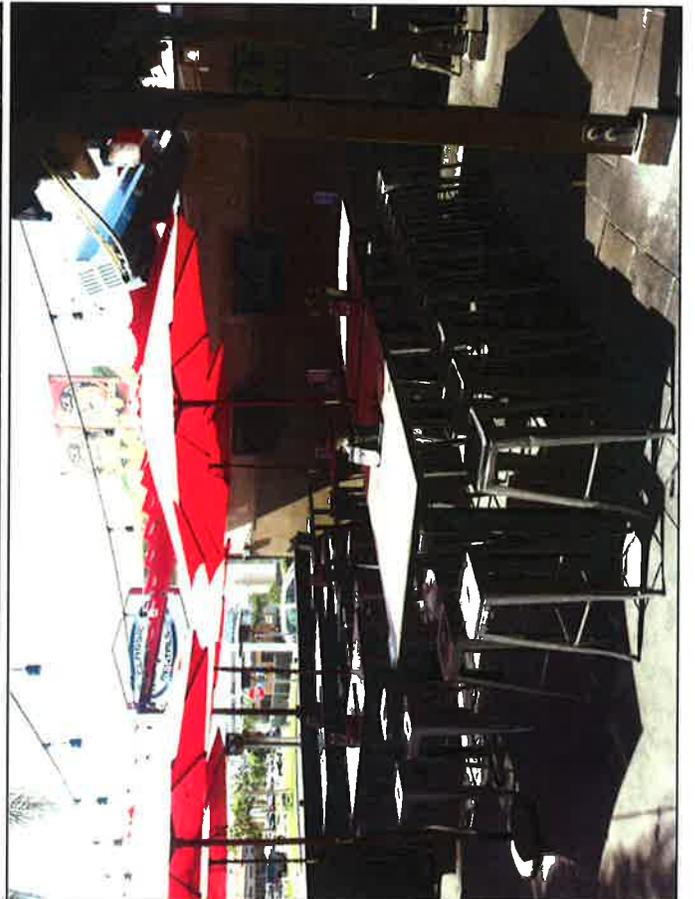
FILE # 151828
1749 NEWPORT BLVD
COSTA MESA CA
APRIL 16 2015
500' OWNERS
424 271 10



NORTH

ATTACHMENT 3

Site Photos



R. A. JEFF
COMMERCIAL DESIGN, INC.

ATTACHMENT 4

June 19, 2015

To whom it may concern,

The Hub Kitchen & Taps is a full service restaurant and bar located at 1749 Newport Boulevard. The restaurant formerly known as Aloha Grill underwent significant renovations prior to opening in July, 2014 under new ownership. Ownership has made a substantial investment in the premises to provide a first class, comfortable environment to its customers and hopes other nearby businesses will join in the revitalization efforts in west Costa Mesa.

The Hub prides itself in offering a wide variety of quality food and drinks at affordable prices to its west Costa Mesa clientele. Our current hours of operation are limited to 9:00 am to 12:00 midnight Fridays and Saturdays, and 9:00 am to 11:00 pm Sunday through Thursday. Please note – we have the support of the only resident within 100' of our premises.

Given the number of nearby restaurants that are currently operating without limited hours, we are finding ourselves in a competitive disadvantage and would like to modify the hours of operation in our CUP. Our request is for the following:

- 7:00 am to 2:00 am, seven days a week

Following is a list of a few successful restaurants and bars that have late night hours in the surrounding area:

Tavern & Bowl Costa Mesa - .4 Miles away
Serving New American Cuisine and Full Bar

Black Knight - .4 miles away
Serving New American Cuisine and Full Bar

Saddle Ranch - .4 miles away
Serving Country Fair Cuisine and Full Bar

La Vita Cantina - .4 miles away
Serving Mexican Cuisine and Full Bar

Goat Hill Tavern - .3 miles away
Full Bar

The Boulevard - .3 miles away
Full Bar

Social - .6 miles away
Serving New American Cuisine and Full Bar

The Harp Inn - .4 miles away
Serving Irish Cuisine and Full Bar

Wild Goose Tavern - 1.1 miles away
Serving New American Cuisine and Full Bar

Pit Fire Pizza/ Pie Society - .9 miles away
Serving Italian Inspired Cuisine and Full Bar

Pierce Street Annex - .8 miles away
Serving Classic American Cuisine and Full Bar

The Yard House - .4 miles away
Serving New American Cuisine and Full Bar

Wayfair - 1.1 miles away
Serving New American Cuisine and Full Bar

Turners Pub 33 - .8 miles away
Serving Classic American Cuisine and Beer & Wine

Tiki Bar - .7 miles away
Serving Classic American Cuisine and Full Bar

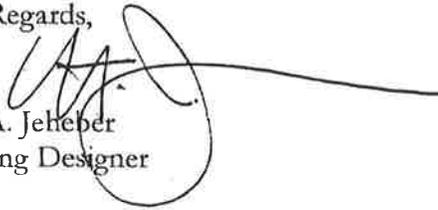
La Cave - 1.2 miles away
American Steakhouse and Full Bar

Casa Costa Mesa - 1 mile away
Speakeasy

On a personal note I would like to add that I designed and prepared the plans for the Aloha Grill. I put a lot of time and effort into this project and I always take pride in my work and love to show off and tell me friends and clients about my projects. The Aloha Grill did not fall into this category. It was fine in the beginning but it soon turned very bad. The staff and clientele where not the type of crowd I felt comfortable around at all. I stopped going to the Aloha Grill completely. The new HUB restaurant is day and night from the Aloha Grill. The staff is awesome and very family friendly. The food is above and beyond what the Aloha Grill had to offer. I personally eat there at least once every two weeks!

If you have any questions or comments please feel free to contact me.

Best Regards,


Rod A. Jeleber
Building Designer

RESOLUTION NO. PC-15-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING PLANNING APPLICATION
PA-07-54 A1 FOR PROPERTY LOCATED AT 1749 NEWPORT
BOULEVARD**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES
AS FOLLOWS:

WHEREAS, an application was filed by Matt Stone, as the authorized agent on behalf of the property owner, R.D. Olson Investments II, LLC., with respect to the real property located at 1749 Newport Boulevard;

WHEREAS, the proposed project involves an amendment to a conditional use permit for an eating and drinking establishment at 1749 Newport Boulevard (The Hub) to allow the restaurant / bar to be open until 2:00 a.m. daily;

WHEREAS, a duly noticed public hearing held by the Planning Commission on August 10, 2015 with all persons having the opportunity to speak for and against the proposal.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **DENIES** Planning Application PA-07-54 A1 with respect to the property described above.

PASSED AND ADOPTED THIS 10TH DAY OF AUGUST, 2015.

Robert L. Dickson, Jr., Chair
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS (DENIAL)

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:

Finding: A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.

Facts in Support of Finding: Granting the request to allow the restaurant to open until 2:00 a.m. would negatively affect neighboring residents. The residents submitted a petition in opposition to the late hours and outdoor seating when the application was originally considered by the Planning Commission. Patrons of The Hub who park their vehicles in the public parking located at 565 W. 18th Street would use the adjoining streets to exit the area at later hours and may travel along the alley that abuts the residences potentially causing disturbances.

Finding: The proposed project does not comply with the performance standards as prescribed in the Zoning Code.

Facts in Support of Finding: The conditions of approval limited the hours of operation were imposed to minimize the potential adverse effects that service of alcoholic beverages at the subject restaurant would have on neighboring residents.

Finding: The proposed project is not consistent with the General Plan or Zoning Code.

Facts in Support of Finding: Allowing late hours of operation may result in noise, odor, smoke, illumination and other objectionable effects on the adjacent residential area.

- B. The proposed project does not comply with Costa Mesa Municipal Code Section Code Section 13-29(g)(2) because:

Finding: The proposed use is not substantially compatible with developments in the same general area and would be materially detrimental to other properties within the area.

Facts in Support of Finding: The change to the operating hours may result in additional noise to residences along Anaheim Avenue and Park Place. Specifically, use of the outdoor patio until 2:00 a.m. may cause noise and other disturbances to the neighboring residences. The applicant's proposal to use the 1,200 square-foot patio (with seating for 87 customers) during extended hours has potential for excess noise levels and disturbance to nearby residences. Patrons of The Hub who park their vehicles in the public parking located at 565 W. 18th Street would also use the adjoining streets to exit the area at later hours and may travel along the alley that abuts the residences. The Police Department also expressed concern with the

concentration of bars in the vicinity and has raised a concern regarding the size of the outdoor patio and its visibility from Newport Boulevard.

Finding: Granting the amendment to the conditional use permit to allow later hours of operation will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Facts in Support of Finding: The Police Department states that the number and type of calls for service implies that patrons are being over served alcoholic beverages by restaurant staff (Attachment 6). Six calls for service over a nine month period involved intoxicated persons at the location; two calls involved person who were passed out at the location. ABC regulations, specifically Section 25602(a) of the Business and Professions Code, prohibit the sale of alcoholic beverages to obviously intoxicated persons. ABC has been notified of the application and the concerns expressed by the Police Department. The Police Department recommends denial of the additional hours of operation for 'The Hub' restaurant/bar. The Crime Prevention Division provided a listing of the calls for service at the subject location for the past 9-10 months. A total of 14 calls for service were received between September 1, 2014 and July 13, 2015.

Finding: Granting the amendment to the conditional use permit will allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

Facts in Support of Finding: The proposed change to the hours of operation would allow a use that is not in accordance with the General Plan Goals and Policies protecting existing residential uses from the encroachment of incompatible or potentially disruptive uses. Granting the request to allow the restaurant to open until 2:00 a.m. would involve intensification of use on a property where an outdoor patio is already permitted to be open until midnight. The change to the operating hours may result in audible noise from the patrons and vehicles leaving the area to residences along Anaheim Avenue and Park Place. The residents submitted a petition in opposition to the late hours and outdoor seating when the application was originally considered by the Planning Commission in 2008 (Attachment 7). The conditions of approval limited the hours of operation were imposed to minimize the potential adverse effects that service of alcoholic beverages at the subject restaurant would have on neighboring residents.

- C. The Costa Mesa Planning Commission has denied Planning Application PA-07-54 A1. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. PC-15-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING AN AMENDMENT TO PLANNING APPLICATION PA-07-54 A1 TO ALLOW EXTENDED EVENING HOURS AFTER 11:00 P.M. FOR AN EXISTING EATING RESTAURANT/ BAR WITHIN 200 FEET OF RESIDENTIALLY ZONED PROPERTIES LOCATED AT 1749 NEWPORT BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Matt Stone, as the authorized agent on behalf of the property owner, R.D. Olson Investments II, LLC., with respect to the real property located at 1749 Newport Boulevard;

WHEREAS, the proposed project involves an amendment to a conditional use permit for an eating and drinking establishment with service of alcoholic beverages after 11:00 p.m. within 200 feet of residentially zoned properties at 1749 Newport Boulevard (The Hub) to allow the business to be open until 2:00 a.m.

WHEREAS, the project was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), The State CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines; and the project was determined to be exempt from further CEQA analysis under Section 15301 for Existing Facilities;

WHEREAS, on February 11, 2008, the Planning Commission approved Planning Application PA-07-54, granting a variance to encroach into the required front setback for an expanded outdoor eating (seating) area, a deviation from the shared parking requirements for a restaurant, and a conditional use permit for sales of alcoholic beverages past 11:00 p.m. for a restaurant/bar within 200 feet of a residential zone;

WHEREAS, a duly noticed public hearing held by the Planning Commission on August 10, 2015 with all persons having the opportunity to speak for and against the proposal;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit B, the Planning Commission hereby approves certain modified conditions for Planning Application PA-07-54 A1 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Planning Application PA-07-54 A1 and upon applicant's compliance with each and all of the conditions in Exhibit B, and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED THIS 10TH DAY OF AUGUST, 2015.

Robert L. Dickson, Jr., Chair
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS (APPROVAL)

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:

Finding: The proposed use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Finding: Granting the conditional use permit will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Finding: Granting the conditional use permit will not allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

- B. The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 (Class 1) for Existing Facilities. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond what that existing at the time of the lead agency's determination. Because the modification to the CUP at the project site will not include a major alteration or expansion to the existing facility, the project qualifies for this exemption.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT B

CONDITIONS OF APPROVAL

- Plng.
1. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation indicated below, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
 2. If construction is proposed, the conditions of approval, code requirements, and special district requirements of PA-07-54 A1 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 3. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 4. The licensee shall not employ or use the services of any full- or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.
 5. Hours of operation shall be limited to 9:00 a.m. to 12:00 midnight ~~Fridays and Saturdays and 9:00 a.m. to 11:00 p.m. Sunday through Thursday~~daily.
 6. No additional alcoholic beverage service shall occur in the outdoor patio area after 12 midnight.
 7. An adequate number of security personnel, as determined by the Police Department Crime Prevention Bureau and/or the Development Services Director, shall be provided to ensure that the premises are monitored during the days and hours the business is in operation. Security personnel shall provide parking management, noise control, loitering prevention, as well as general security of all parking areas on and immediately abutting the subject site at minimum from 10:00 p.m. to 1:00 a.m. daily.
 8. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
 9. Live entertainment shall be prohibited.
 10. Rear door shall remain closed at all times during business hours except for entry and exit only.
 11. Operator shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of applicant

shall be directed in such a manner so as not to unreasonably interfere with the quiet enjoyment of nearby residences. Applicant shall further provide adequate lighting above the entrance to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.

The intensity and location of lights shall be limited to minimize nighttime light and glare to residents and shall be subject to the Development Services Director's approval.

All site lighting fixtures shall be provided with a flat glass lens. Photometric calculations shall indicate the effect of the flat glass lens fixture efficiency.

Lighting design and layout shall limit light spillage to no more than 0.5 foot-candles at the property line of residential properties, consistent with the level of lighting that is determined necessary for safety and security purposes on site. Light standards near residential properties shall be shielded in such a way as to minimize light spillage onto surrounding properties.

12. The applicant and/or his successors in interest shall work with the neighbors to the west across the alley to alleviate noise, light and glare resulting from operation of the restaurant.
13. The applicant shall continue to inspect and promptly clear any debris or litter dropped by the restaurant patrons along Old Newport Boulevard and the alley to the west of the premises.
14. The applicant shall install surveillance cameras covering the interior and exterior of the building with six months of stored footage.
15. The maximum occupancy, as determined by the provisions of the Uniform Building Code or other applicable codes, shall be posted in public view of the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.
16. The opaque portion of the outdoor patio screen wall shall not exceed 48 inches in height. Glass or acrylic panels may be installed on top of the screen wall, not to exceed an overall maximum height of six feet. Wall materials shall be subject to review and approval by the Planning Division.
17. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
18. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.

19. All sales and service staff of The Hub shall complete Responsible Beverage Service (RBS) training (within 90 days of hire) with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.
20. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the applicant.
21. There shall be no sales of alcoholic beverages for off-site consumption.
22. At all times the premises are open for business, the sale and service of alcoholic beverages shall be made only in conjunction with the sale and service of food.
23. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The applicant shall at all times maintain records which reflect separately the gross sales of food and gross sales of alcoholic beverages of the business. The records shall be kept no less frequently than on a quarterly basis and shall be made available to the Development Services Director or his/her designee on demand.
24. The restaurant shall remain a "bona fide eating place" as defined by Section 23038 of the California Business and Professions Code.
25. The parking lot shall be posted with signs directing customers and employees to use consideration when entering their cars and leaving the parking lot.
26. The footprint of the outdoor patio shall not extend beyond the boundary of the restaurant tenant space.
27. If parking shortages or other parking related problems arise, the business operator shall institute whatever operational measures necessary to minimize or eliminate the problem.
28. The Planning Division shall review the CUP not later than six months after approval to determine if the above conditions of approval are being complied with. The Development Services Director or his/her designee may extend the Planning Application review for subsequent one year periods if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements.
29. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the Director of Economic & Development Services/Deputy CEO or his designee, any of the findings upon which the approval was based are no longer applicable.

30. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.

COSTA MESA POLICE DEPARTMENT

MEMORANDUM

TO: Antonio Gardea
FROM: Lieutenant E. Everett
SUBJECT: The Hub
DATE: July 24, 2015

This area of the city has a number of bars and nightclubs that generate a great deal of calls for service on Friday and Saturday nights. In reviewing calls for service at The Hub there are six calls over a nine month period involving intoxicated subjects at the location. Two calls involve subjects who are passed out at the location. This is an inordinate amount of calls and gives the impression that the staff at The Hub is overserving its patrons. I have attached the dates and times of the calls.

Call Time	Nature	Business	Service
10/24/2014 23:31:13	WELFARE CHECK	THE HUB	LAW
11/23/2014 14:46:53	DISTURBANCE MALE	THE HUB	LAW
05/24/2015 13:37:08	PERSON PASSED OUT***	THE HUB	FIRE
05/24/2015 13:37:22	PERSON PASSED OUT***	THE HUB	LAW
05/31/2015 17:35:30	DISTURBANCE MALE	THE HUB	LAW
06/06/2015 01:23:09	PERSON PASSED OUT	THE HUB	FIRE
06/13/2015 21:43:23	INTOXICATED IN PUBLIC	THE HUB	LAW

Additional city staff is currently addressing residents' complaints of disturbances and parking issues in the surrounding neighborhoods due to the other bars in the area. It is our belief that patrons at The Hub would park in residential neighborhoods to the west and north of the location. The outside seating area of the restaurant/bar is visible from Newport Bd and could cause a distraction for drivers. For these reasons the Police Department would not be supportive of having The Hub restaurant/bar extend its operating hours past midnight.

Ed Everett
Lieutenant



City of Costa Mesa

The Hub

July 16, 2015

The Hub Calls for Service 9/1/2014-7/13/2015

Between September 1st, 2014 and July 13th, 2015 there were 17 Calls for Service from The Hub with 5 of them resulting in a case being generated.

Call Time	Nature	Business	Service
09/29/2014 03:47:41	BURGLARY AUDIBLE ALARM	THE HUB	LAW
10/24/2014 23:31:13	WELFARE CHECK*	THE HUB	LAW
10/24/2014 23:34:29	WELFARE CHECK*	THE HUB	LAW
11/23/2014 14:46:53	DISTURBANCE MALE	THE HUB	LAW
01/06/2015 18:25:42	T TRAFFIC STOP	THE HUB	LAW
01/15/2015 22:05:39	ACCIDENT NON INJURY**	THE HUB	LAW
01/15/2015 22:09:20	ACCIDENT NON INJURY**	THE HUB	LAW
03/18/2015 16:42:14	RESISTING POLICE OFFICER	THE HUB	LAW
04/27/2015 03:26:23	BURGLARY AUDIBLE ALARM	THE HUB	LAW
04/27/2015 07:06:21	BURGLARY AUDIBLE ALARM	THE HUB	LAW
05/24/2015 13:37:08	PERSON PASSED OUT***	THE HUB	FIRE
05/24/2015 13:37:22	PERSON PASSED OUT***	THE HUB	LAW
05/31/2015 17:35:30	DISTURBANCE MALE	THE HUB	LAW
06/06/2015 01:23:09	PERSON PASSED OUT	THE HUB	FIRE
06/08/2015 10:51:09	TRANSIENT	THE HUB	LAW
06/13/2015 21:43:23	INTOXICATED IN PUBLIC	THE HUB	LAW
06/14/2015 19:47:59	FOLLOW UP REPORT	THE HUB	LAW

*, **, *** Duplicate Calls (Same Event)

ATTACHMENT 7

Commissioner Clark began the discussion of the conditions of approval.

Mr. Bennett responded to the Chair that he agreed to all the conditions of approval.

MOTION: Approve Planning Application PA-07-36, by adoption of Planning Commission Resolution PC-08-14, based on the evidence in the record and findings contained in Exhibit "A", subject to conditions in Exhibit "B".

Moved by Commissioner Sam Clark, seconded by Vice Chair James Fisler.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler,
Commissioner Sam Clark, Commissioner Eleanor Egan, and
Commissioner James Righeimer

Noes: None.

Absent: None.

3. **From the meeting of January 28, 2008, Planning Application PA-07-54, for Gaston Villaba, authorized agent for Mesa Brothers, LLC, for a variance to encroach into the required front setback for an outdoor bar area (20 ft. required; 6 ft. proposed), with a conditional use permit to serve alcoholic beverages past 11:00 p.m. (midnight on weekdays and 2:00 a.m. Fridays and Saturdays), with live entertainment, within 200 feet of a residential zone, and a minor conditional use permit to expand an outdoor seating area for restaurant use (previously a coffee house), and to deviate from shared parking requirements, located at 1749 Newport Boulevard, in a C2 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report, including the revised conditions. He responded to questions from the Commission regarding the closing time for most of neighboring businesses; deviation from shared parking; valet parking; and prior occupancy.

Gaston Villaba, authorized agent for the property owner, stated that he wants to fix up the property and improve the area.

The Chair, Commissioner Egan, Commissioner Clark, and Mr. Villaba discussed having a timed gate at the rear of the property; noise; valet parking; and entertainment. Mr. Villaba agreed to all the conditions of approval.

Jeff Martin, rear neighbor, Costa Mesa, provided a letter to the Commission and expressed concerns regarding noise and valet parking, and that customers will be parking on his street.

Mark Korando, Costa Mesa, commented on noise concerns and how that will affect the enjoyment of living there. He stated that he did not receive a public notice. He suggested a six-month review of this establishment.

Jaime Korando, Costa Mesa, also expressed concerns regarding the noise, valet parking, and keeping the neighborhood quiet.

Mark Allen Korando, Costa Mesa, commented on noise and parking issues and how this will affect him at night.

Jack Martinez, owner of the neighboring hardware store, gave his support for the project.

Devon Yornea, mentioned that there will be disturbance calls because of the noise and the live entertainment.

Harley Hall, managing member for the property owner, said this establishment will improve the neighborhood, and commented that there will be noise if you are 500 feet from Newport Boulevard.

Mr. Mark Korando returned and noted the open bar area.

Mr. Villaba replied to the Chair, the Vice Chair, and Commissioner Egan that if live entertainment is used, all doors will be closed, and the hours of operation would be from 10:00 a.m. to 1:00 a.m., with closing at 11:00 p.m. on week nights.

Mr. Mark Allen Korando returned and expressed concern regarding the open bar area.

The Chair closed the public hearing.

MOTION: Approve Planning Application PA-07-54, as revised, by adoption of Planning Commission Resolution PC-08-15, based on the evidence in the record and findings contained in Exhibit "A", subject to conditions in Exhibit "B", with modifications to the conditions, a follows:

Conditions of Approval

8. Hours of operation shall be limited to 9:00 a.m. to ~~2:00 a.m.~~ 12:00 midnight Fridays and Saturdays, and 9:00 a.m. to 11:00 p.m. ~~12:00 midnight~~ Sunday through Thursday.
9. ~~Live entertainment shall only be permitted subject to City issuance of a "public entertainment permit." Contact Code Enforcement at (754-5623) for application information.~~
10. ~~Live entertainment shall be limited to within the restaurant only; no live entertainment shall be provided in the outdoor patio area.~~
11. There shall be no live entertainment after ~~12:00 midnight~~ any day of the week.
12. The Rear door shall remain closed at all times during any live entertainment. business hours except for entry and exit only.
13. ~~Music or other entertainment shall not be audible beyond the area under the control of the licensee.~~
25. If parking shortages or other parking-related problems arise, the business operator shall institute whatever operational measures necessary to minimize or eliminate the problem, including, but not limited to, applying for a separate conditional use permit to provide on-site valet parking.
26. The applicant shall apply for a separate conditional use permit to provide on-site valet parking no later than 30 days from the date of approval.

Moved by Commissioner James Righeimer, seconded by Commissioner Eleanor Egan.

During discussion on the motion, Commissioner Egan asked that public parking be allowed in the rear parking area and Commissioner Righeimer agreed to delete the condition.

Commissioner Clark expressed concern regarding live entertainment and Mr. Villaba agreed to remove same.

The Commission discussed the conditions of approval and deleting Condition Nos. 9 and 10 and moving 12 and 13. The maker and the seconder of the motion agreed to remove the live entertainment all together.

Commissioner Clark suggested that the rear door of the restaurant be remained closed during business hours.

The Chair and Commissioner Righeimer discussed that this establishment must comply with the conditional use permit. Commissioner Righeimer complimented the owner on their establishment in Huntington Beach.

Mr. Korando returned and expressed his opposition to the project.

The Chair asked Mr. Villaba to make every effort to get along with the neighbors. Mr. Villaba agreed and also agreed to all the revised conditions of approval.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fidler, Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

4. **Planning Application PA-07-38, for George Forbes, authorized agent for Boris Pirah and Jacob Logar, for a conditional use permit to expand a bar/lounge (The Huddle) with alcohol sales past 11:00 p.m., within 200 feet of a residential zone, into an adjacent 774 sq. ft. space, and to deviate from shared parking requirements, located at 741 Baker Street, in a C1 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report, and there were no questions of staff.

George Forbes, authorized agent for the property owners, agreed to all the conditions of approval and said he has been a part of this community for 40 years.

Commissioner Clark and Mr. Lee discussed the distance from the site to the nearest residence and noted there have been just a handful of incidents in the past seven years due to this establishment.

Tim Callaway, President of Pentridge Cove Homeowners Association, Costa Mesa, mentioned his concerns about the parking and inquired as to the number of parking spaces.

Mr. Lee noted that there are 76 on-site parking spaces and the Chair stated there should be no conflict since the other businesses are day-time businesses.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: FEBRUARY 11, 2008

VI.3

ITEM NUMBER:

**SUBJECT: PLANNING APPLICATION PA-07-54
1749 NEWPORT BOULEVARD**

DATE: JANUARY 31, 2008

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611**

PROJECT DESCRIPTION

The applicant is requesting approval of a variance to encroach into the required front setback, a conditional use permit to allow sales of alcoholic beverages past 11:00 p.m., as well as live entertainment, within 200 feet of a residential zone; and minor conditional use permits to allow an expanded outdoor seating area and to deviate from shared parking requirements for a proposed restaurant (Aloha Grill).

APPLICANT

The applicant is Gaston Villaba, authorized agent for Mesa Bros. LLC, the owner of the property.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.

Handwritten signature of Mel Lee in black ink.

MEL LEE, AICP
Senior Planner

Handwritten signature of Kimberly Brandt in blue ink.

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

The Planning Commission received a staff report for a proposed Hawaiian-themed sit-down restaurant (Aloha Grill) for the January 28, 2008 Planning Commission meeting. On January 24, 2008, the applicant submitted a revised floor plan layout in response to staff issues noted in the report, particularly regarding the placement of a permanent outdoor sit-down bar and the proposed expanded outdoor seating area. Planning Commission continued this item to the February 11, 2008 meeting to allow the revised floor plans to be reviewed by staff.

ANALYSIS

Copies of the original and revised floor plans are attached to this report. A comparison of the floor plans is summarized in the table below:

Original Floor Plan	Revised Floor Plan
A permanent sit-down bar with sinks, coolers, and similar fixtures within the outdoor seating area and underneath a covered roof structure, which also extended across the front of the building.	Permanent sit-down bar area moved to inside the restaurant and covered roof structure over the bar area eliminated; portion of roof structure extending across the front of the building remains (see discussion below).
On-site sale of alcoholic beverages past 11:00 p.m. and live entertainment within 200 feet of a residential zone, limited to inside the restaurant only.	No Change
An expanded outdoor seating area extending over to the adjacent retail store to the north (Black Flies).	Outdoor seating area reduced from 1,678 sq. ft. to 1,258 sq. ft.; interior restaurant space increased from 1,260 sq. ft. to 1,818 sq. ft. As a result, outdoor seating area will not extend beyond the restaurant tenant space.
A minor conditional use permit to deviate from shared parking requirements	No Change

Setback Variance

As noted in the table above, the revised floor plan eliminated the bar from the outdoor seating area and relocated it inside the building; as a result, a variance to allow the bar to encroach into the front building setback is no longer necessary. In addition, the roof structure over the bar was eliminated, although a smaller roof structure proposed across the front of the tenant space remains. This roof structure is set back 5 feet from the front property line at the narrowest point; a 15-foot setback is allowed under Code, so a variance for this portion of the roof is still necessary.

Staff has reviewed the revised plan and notes that strict application of the 20-foot setback requirement would deprive the property owner of privileges enjoyed by other properties in the vicinity, specifically, Golden Truffle and Roman Cucina, which have similar roof structure encroachments within the setback. Because the revised roof structure is consistent with these other roofs, staff believes there is a basis to support the variance for the roof structure encroachment.

Outdoor Seating Area

The revised plan reduces the outdoor seating area from 1,678 sq. ft. to 1,258 sq. ft.; however, the interior restaurant space increases from 1,260 sq. ft. to 1,818 sq. ft. resulting from floor area added to the restaurant from the abutting retail tenant space. As a result, the floor area of the overall restaurant, including indoor and outdoor areas, increases from the 2,930 square feet shown on the original plan to 3,076 square feet on the revised plan, an increase of 146 square feet. However, the outdoor seating area as modified will not extend beyond the expanded restaurant tenant space.

Although the bar has been relocated inside the restaurant space as noted earlier, an outside seating area at the bar is proposed. However, it is staff's opinion that the original recommended condition of approval restricting the bar to a "service bar" only is no longer necessary because the outdoor portion of the bar has been substantially reduced, with the majority of the bar being inside the building. Additionally, only 5 outdoor seats are proposed. Originally the entire bar, with 11 seats, were proposed outdoors.

Deviation from Shared Parking

As indicated earlier, the revised plan increases the floor area from 2,930 square feet to 3,076 square feet. As a result, the required number of on-site spaces increases from 29 spaces to 31 spaces; 16 on-site parking spaces are provided.

To minimize parking impacts on surrounding properties, staff recommended a condition of approval limiting the total square footage of the restaurant and seating area to 2,500 square feet per the approved footprint for Café Ruba. As an alternative, staff is recommending that the applicant provide on-site valet parking for the use in the evening hours. However, because valet parking requires approval of a conditional use permit, which was not included as part of the public notice for this project, staff is recommending a condition of approval requiring the applicant to apply for a separate conditional use permit within 30 days, which will be processed and scheduled as a separate public hearing.

Modification to Conditions Based on Revised Plan

Based on the above issues, staff has modified the conditions of approval in Exhibit "B" as noted in underline and strikethrough below:

6. The restaurant shall be limited to the type of operation described in this staff report, i.e., a sit-down restaurant with an outdoor seating area with a portable bar that can be moved inside the building, limiting the alcohol sales via the portable outside bar to no sit-down customers, the majority of the bar being inside the building with only 5 bar seats outside of the building, limiting live entertainment to inside of the restaurant only, and restricted outdoor seating area that does not extend beyond the boundary of the restaurant tenant space. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages or provision of entertainment, will

require approval of an amendment to the conditional use permit, subject to Planning Commission approval.

23. ~~The permanent outside sit-down bar as shown on the plans shall be eliminated, and a portable outside bar that could be moved inside the building shall be provided. The portable outside bar shall be limited to a "service bar" only (i.e., no serving of alcohol to patrons seated at the bar, only to diners at the tables). Deleted.~~
24. ~~The combined square footage of the restaurant and the outdoor patio shall not exceed 2,500 square feet. The footprint of the outdoor patio shall not extend beyond the boundary of the restaurant tenant space.~~
26. The applicant shall apply for a separate conditional use permit to provide on-site valet parking no later than 30 days from the date of approval.

Other Issues

The revised plan was reviewed by the Police Department. As indicated in the attached memo, Police have no specific concerns with the proposed use, provided the recommended conditions of approval are complied with.

GENERAL PLAN CONFORMITY

The existing building does not exceed the maximum allowable .30 floor area ratio (FAR) for the site. The use is permitted in the C2 zone, with a conditional use permit, and is therefore, consistent with the General Plan.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the use per the revised plan as proposed by the applicant;
2. Approve the use per the revised plan with modifications; or
3. Deny the use as proposed. If the use is denied, the applicant could not submit substantially the same type of application for six months.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

It is staff's opinion that, based on the revised plans and conditions of approval, the use will not create any adverse impacts on surrounding properties. Therefore, staff supports the use as revised.



PLANNING COMMISSION AGENDA REPORT

VI. 8

MEETING DATE: JANUARY 28, 2008

ITEM NUMBER:

**SUBJECT: PLANNING APPLICATION PA-07-54
1749 NEWPORT BOULEVARD**

DATE: JANUARY 17, 2008

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611**

PROJECT DESCRIPTION

The applicant is requesting approval of a variance to encroach into the required front setback for an outdoor bar and covered roof structure, a conditional use permit to allow sales of alcoholic beverages past 11:00 p.m., as well as live entertainment, within 200 feet of a residential zone; and minor conditional use permit to allow an expanded outdoor seating area and to deviate from shared parking requirements for a proposed restaurant (Aloha Grill).

APPLICANT

The applicant is Gaston Villaba, authorized agent for Mesa Bros. LLC, the owner of the property.

RECOMMENDATION

Approve as modified by adoption of Planning Commission resolution, subject to conditions.

Handwritten signature of Mel Lee in black ink.

MEL LEE, AICP
Senior Planner

Handwritten signature of Kimberly Brandt in black ink.

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

The site contains a one-story, 2,970 square foot commercial building. The building is divided into two tenant spaces; one for the proposed use, approximately 1,260 square feet in size, and the other for an existing retail store (Black Flys Eyewear) approximately 1,710 square feet in size. On-site parking is provided at the rear of the building, accessed from the existing public alley; an additional public parking area is available at the front of the property along the Old Newport Boulevard frontage road.

The space for the proposed use was formerly occupied by a coffee shop (Café Ruba) which was approved on February 25, 1991, under Conditional Use Permit PA-91-20¹ to have outdoor seating for an eating establishment within 200 feet of a residential zone, with off-site parking. In 1993, the conditional use permit was renewed under PA-91-20A. As part of that renewal, the off-site parking was eliminated and the request amended to reflect a deviation from shared parking requirements. Live entertainment was also allowed, but restricted to non-amplified music outside of the building and only before 10:00 p.m. on any evening.

ANALYSIS

The applicant is proposing to operate a Hawaiian-themed sit-down restaurant (Aloha Grill) in the space previously occupied by Café Ruba. Aloha Grill also operates in the City of Huntington Beach. Additional information about the restaurant has been provided by the applicant and is attached to this report. The request includes the following:

- A variance from front setback for a proposed outdoor bar area and covered roof canopy;
- A conditional use permit for on-site sale of alcoholic beverages past 11:00 p.m. and live entertainment within 200 feet of a residential zone;
- A minor conditional use permit to allow an expanded outdoor seating area; and
- A minor conditional use permit to deviate from shared parking requirements.

Setback Variance

The applicant is requesting a variance from front setback requirements to allow permanent improvements for a sit-down bar (e.g., storage coolers, sinks, counter tops, etc.) setback 6 feet from the front property line (20 feet required) and to construct a new roof structure over the outdoor bar and dining area along the front of the building. Per code, roofs may overhang 5 feet into the required 20 foot setback, resulting in a setback of 15 feet as measured from the property line to the roof edge; a setback ranging from 4 feet to 5 feet is proposed for the roof structure.

Code Section 13-29(g)(1) allows granting a variance where special circumstances applicable to the property exist, such as an unusual lot size, lot shape, topography, or similar features, and where strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by owners of other properties in the vicinity under

¹ Part of the request also included a review by the Redevelopment Agency under RA-91-03.

portable outside bar be limited to a "service bar" only (i.e., no serving of alcohol to patrons seated at the bar, only to diners at the tables).

Deviation from Shared Parking

As indicated earlier, 29 on-site parking spaces are required for the use; 16 on-site parking spaces are provided. Off-site parking spaces for the subject property, as well as the other businesses on the 1700 block of Newport Boulevard, are provided in the parking area at the front of the buildings (adjacent to Newport Boulevard). Because these parking spaces are public spaces within the right-of-way, a separate conditional use permit to utilize these spaces is not required. A summary of the available parking for the 1700 block of Newport Boulevard is provided in the following table:

# Parking Spaces Available In Parking Area Fronting Newport Blvd.	67 Spaces
# Spaces Provided In W. 18 th Street Parking Lot (1)	55 Spaces
Total Available	122 Spaces

(1) This parking lot has restrictions for parking during weekdays and after midnight.

As indicated earlier, a previous approval to deviate from shared parking was granted under PA-91-20 and PA-91-20A for this use. Therefore, there should be no additional impacts to the parking within the surrounding area, provided the combined square footage of the restaurant and outdoor patio does not exceed the 2,500 square feet originally analyzed and approved under PA-91-20 and PA-91-20A. This has been included as a condition of approval. The change in the peak hours of the use as a result of the prior use being a coffee shop, which had an early morning peak, versus the proposed restaurant, which will have lunchtime and dinnertime peaks, should be minimal based on the availability of parking spaces within the area and on the subject site. A condition of approval has been included requiring that if parking shortages or other parking-related problems arise, the business operator shall institute whatever operational measures necessary to minimize or eliminate the problem.

GENERAL PLAN CONFORMITY

The existing building does not exceed the maximum allowable .30 floor area ratio (FAR) for the site. The use is permitted in the C2 zone, with a conditional use permit, and is therefore, consistent with the General Plan.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the use as proposed by the applicant, specifically, granting the setback variance for the permanent outside sit-down bar and roof structure, allowing the seating area to expand to the front of the adjacent retail tenant space, as well as the other entitlements supported by staff (i.e., sale of alcoholic beverages and live entertainment within 200 feet of residential past 11:00 p.m., and deviation from shared parking);
2. Approve the use with the modifications proposed by staff, specifically, without the requested variance from front setback requirements for the permanent outside bar

an identical zoning classification. Other factors (such as existing site improvements) may also be considered.

It is staff's opinion that there is no justification for the encroachment of the proposed bar improvements, which are permanent, within the required setback and outside of the restaurant. As discussed later in this report, staff is recommending the outdoor seating area be limited to dining only and any outside alcoholic beverage service be facilitated by a portable bar. Although the previous restaurant had a fabric canopy, which encroached within the front setback, staff is concerned with the construction of a roof structure more permanent than a fabric canopy. As a result, staff is not in support of the variance request.

Sale of Alcoholic Beverages and Live Entertainment

The applicant is proposing to provide full sit-down bar service in conjunction with the restaurant. If approved, the applicant would be required to comply with the State Alcoholic Beverage Control (ABC) requirements and the City's recommended conditions of approval.

The applicant is proposing the following hours of operation: 9:00 a.m. to 2:00 a.m. Fridays and Saturdays, and 9:00 a.m. to 12:00 midnight, Monday through Sunday.

A summary of the other eating and drinking establishments within the same block and posted hours of operation are summarized in the following table, including the former Café Ruba (proposed Aloha Grill). The table also includes any conditional use permits and restrictions on hours of operation, entertainment, etc.

Restaurant	Hours of Operation	CUP	Restrictions/Limitations
Café Ruba (Proposed Aloha Grill)	6a.m.-2a.m., 7 days a week	PA-91-20/PA-91-20A For live entertainment, outdoor seating, offset hours of operation, and deviation from shared parking.	No amplified outdoor live entertainment. No live entertainment after 10:00 p.m.
Golden Truffle	11a.m.-2:30 p.m., Tues.-Fri. (lunch) 5:30p.m.-10:30p.m.Thurs.-Sat. (dinner)	ZE-84-52 for outdoor seating and interior expansion, with parking deviation.	Limited seating during lunch hours.
Roman Cucina (Formerly Bamboo Terrace)	5:00p.m.-12:00 midnight, 7 days a week	PA-99-31 for live entertainment. PA-03-57 for outdoor seating, dancing (1), and expanded hours of operation.	Live entertainment required to be ancillary to restaurant use, rear door required to remain closed during entertainment.
Wingstop	11:00a.m.-11:00p.m., Mon.-Sun.	No CUP on file.	Permitted use with no special restrictions or limitations. (2)
Side Street Café	7:30 a.m. -3:30 p.m., 7 days a week	PA-91-71 For parking deviation only.	Permitted use with no special restrictions or limitations. (2)

(1) Dancing is not provided by the current restaurant use.

(2) Subject to standard requirements per Code Section 13-47 for eating and drinking establishments within 200 feet of a residential zone.

There is also a proposed frozen yogurt shop at 1799 Newport Boulevard that is not yet open to the public.

Staff supports the sale of alcoholic beverages past 11:00 p.m. provided the bar service within the outdoor seating area occurs from a portable bar as discussed later in this report.

The applicant is also requesting amplified live entertainment within the restaurant only; no live entertainment, amplified or non-amplified, is proposed in the outdoor seating area. Staff does not have a concern with the request, as long as the live entertainment operates under the same restrictions approved for Roman Cucina (formerly Bamboo Terrace), i.e., live entertainment to be ancillary to the restaurant use and cannot operate past 12:00 midnight. Additionally, a condition of approval has been added requiring the rear door to remain closed during any live entertainment, which is consistent with a similar condition of approval for Roman Cucina's conditional use permit.

According to City records, Café Ruba closed in July 2007. The last Code Enforcement complaint regarding noise related to live entertainment was in 1999, so there have been no Code related problems with their live entertainment or patrons in the last 8 years. A noise complaint regarding early morning deliveries was received in 2001.

Outdoor Seating Area

The applicant is proposing to expand the outdoor seating area as originally approved under PA-91-20 and PA-91-20A. The staff report for PA-91-20, a copy of which is attached to this report, describes the total square footage of the restaurant and the outdoor seating area as 2,500 square feet. Based on the plans submitted by the applicant, the restaurant and proposed patio area is 2,938 square feet, an increase of 438 square feet. The increase in area is the result of the proposed outdoor seating area being extended over to the adjacent eyeglasses store to the north (Black Flies).

The outdoor seating area for Café Ruba was not fully enclosed. Because the applicant is proposing to serve alcoholic beverages in the outdoor seating area, a screen wall is required. Staff has included a condition of approval requiring wall materials to be approved by the Planning Division, and the upper portion of wall be clear glass or acrylic.

Although there have been no recent complaints regarding the outdoor seating area for this or the other eating establishments, staff is concerned that the expanded area could create parking impacts to the surrounding uses. Therefore, staff is recommending that the footprint of the outdoor seating area not extend beyond the boundary of the restaurant tenant space.

With regard to the proposed outside sit-down bar, staff is concerned that the bar could create additional noise impacts to surrounding properties, particularly to the residents at the rear of the property, which may not be easy to address in the future if a permanent outside sit-down bar was constructed. Therefore, staff is recommending, as a condition of approval, that the permanent outside bar be eliminated, and a portable outside bar that could be moved inside the building be provided. Also, staff is recommending that the

and the roof structure, eliminating the permanent outside bar and providing a portable bar that can be moved inside the building, limiting alcohol sales via the portable outside bar to no sit-down customers, and restricting the outdoor seating area to not extend beyond the boundary of the restaurant tenant space, as well as the other entitlements supported by staff (i.e., sale of alcoholic beverages and live entertainment within 200 feet of residential past 11:00 p.m., and deviation from shared parking); or

3. Deny the use as proposed. If the use is denied, the applicant could not submit substantially the same type of application for six months.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

It is staff's opinion that, based on the recommended modifications and conditions, the use will not create any adverse impacts on surrounding properties. Therefore, staff supports the request as modified.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Applicant's Project Description and Exhibits
 Staff Report for PA-91-20 and Resolution for PA-91-20A
 Zoning/Location Map
 Plans

cc: Deputy City Manager - Dev. Svs. Director
 Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Gaston Villalba
 221 Main Street, Suite F
 Huntington Beach, CA 92648

Dan Flecky
 2206 Windward
 Newport Beach, CA 92660

Mesa Bros. LLC
 420 McKinley Street
 Corona, CA 92879

Recd during PC Mtg.
of 2-11-08

cv

City of Costa Mesa
77 Fair Drive
Costa Mesa, California

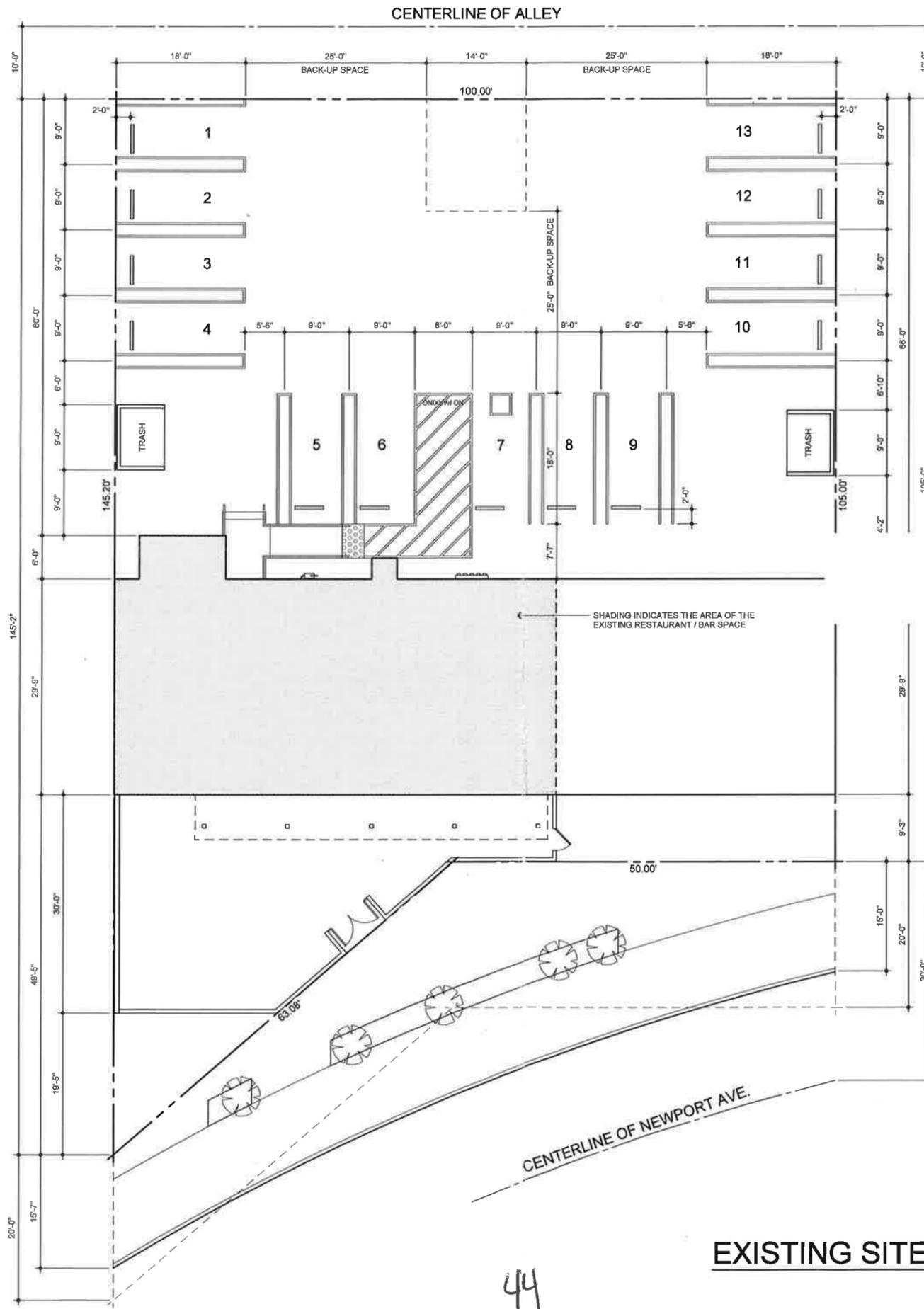
FEBRUARY 6, 2008

ATTN: PLANNING COMMISSION
AP.# PA 0754

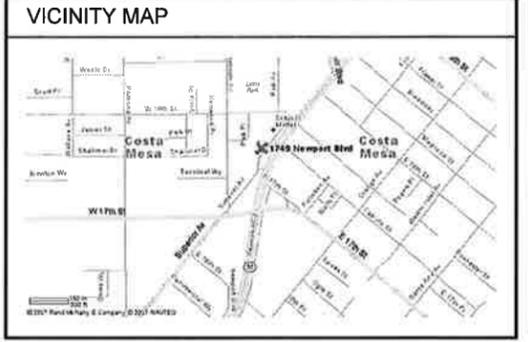
WE THE PEOPLE ON PARK DRIVE, COSTA MESA, CALIFORNIA ARE OPPOSED TO HAVING ALCOHOL, LIVE MUSIC, LATE HOURS AND OUT DOOR SEATING AT, 1749 NEWPORT BLVD., COSTA MESA, CALIF. 92627. AS THE MAJORITY OF THIS AREA ARE ALL WORKING PEOPLE AND NEED QUIET TIME AND NOT BE WOKE UP WITH TRAFFIC COMING AND GOING ALONG WITH NOISE. THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER.

[Handwritten signature]
[Handwritten signature]
[Handwritten signature]
 Notario Jaeger
 Officer Kelly
 Mike Dlubomsky
 (add) MARK KRAVCO

589 Park Dr
 589 Park Dr.
 591 PARK DR.
 591 Park Dr.
 591 Park Drive
 596 PARK DRIVE



EXISTING OUTDOOR DINING AREA: 1,902.0 SQ. FT.
 EXISTING PARKING PROVIDED: 13 SPACES



R. A. JEHEBER
COMMERCIAL DESIGN,
 410 32nd Street, Suite 202
 Newport Beach, California 92663
 949.723.4393 (rajehaber@gmail.com)

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NOTE: PARKING LAYOUT DOES NOT MATCH EXISTING

SHEET TITLE
EXISTING SITE PLAN

CONDITIONAL USE PERMIT PLANS FOR:
THE HUB
 PROJECT ADDRESS:
 1749 NEWPORT BLVD.
 COSTA MESA, CALIFORNIA

Print Date	5/6/2015 2:46 PM
HAJ Project #	2014-40
REVISIONS	
PLAN CHECK CORR.	01-28-2015

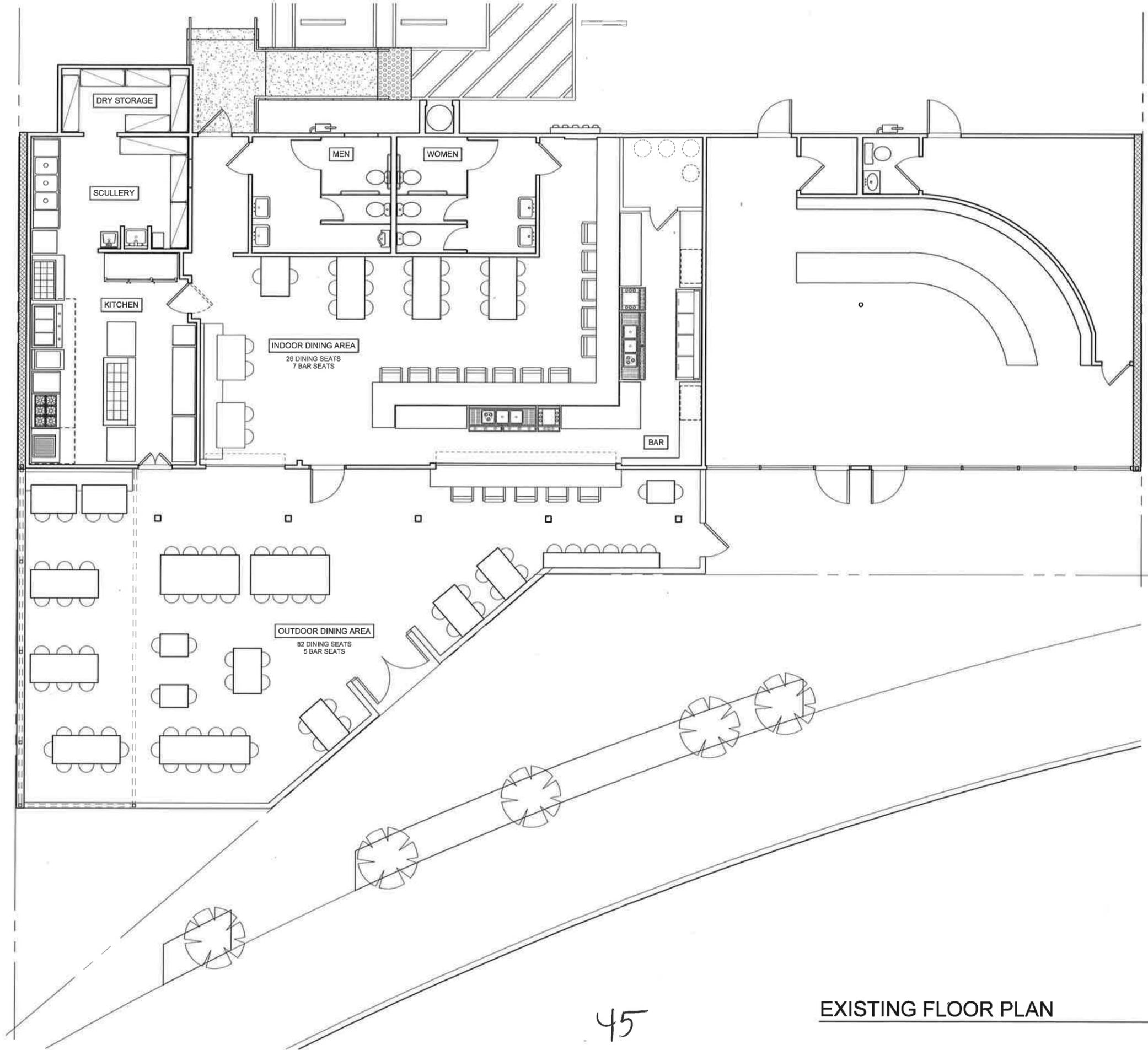
EXISTING SITE PLAN

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



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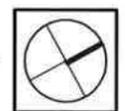
44



45

EXISTING FLOOR PLAN

Scale: 1/4" = 1'-0"



R. A. JEHEBER
COMMERCIAL DESIGN, INC.
410 32nd Street, Suite 202
Newport Beach, California 92663
949.723.4393 (rajeheber@gmail.com)



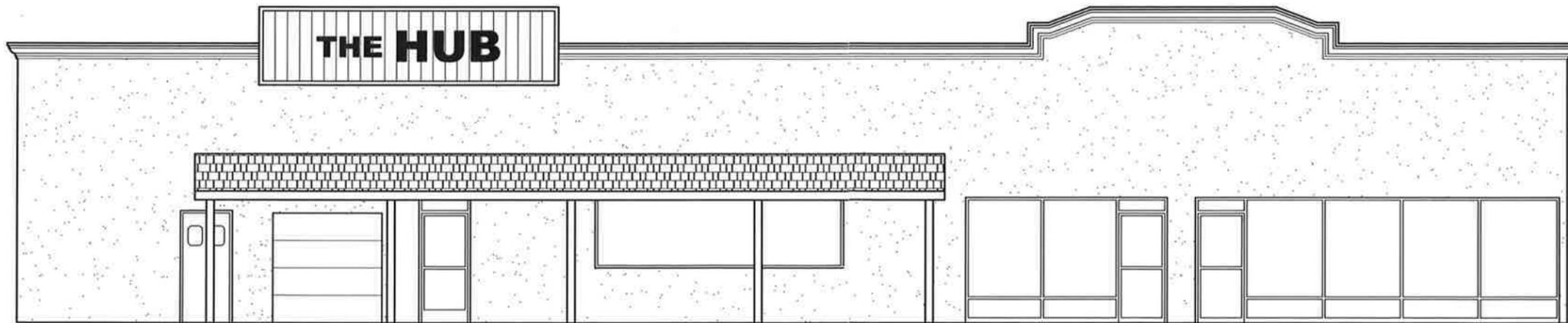
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COSTA MESA, CALIFORNIA

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Job Project #	2014-40
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PLAN CHECK CORR	01-28-2015

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EXISTING FRONT ELEVATION

SCALE: 1/4" = 1'-0"

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SHEET TITLE
**EXISTING
 FRONT ELEVATION**

CONDITIONAL USE PERMIT PLANS FOR:
THE HUB
 PROJECT ADDRESS:
 1749 NEWPORT BLVD.
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 COMMERCIAL DESIGN, INC.**
 410 32nd Street, Suite 202
 Newport Beach, California 92663
 949.723.4393 (rajeheber@gmail.com)