

# **Attachment No. PC 1**

Draft Resolution with Findings and  
Conditions

INTENTIONALLY BLANK PAGE

## RESOLUTION NO. PC 2026-005

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SUPERSEDING ALL PREVIOUS APPROVALS AND APPROVING A CONDITIONAL USE PERMIT TO OPERATE AN EATING AND DRINKING ESTABLISHMENT WITH A TYPE 47 (ON-SALE GENERAL – EATING PLACE) ALCOHOL BEVERAGE CONTROL LICENSE, LATE HOURS, AND LIVE ENTERTAINMENT FOR THE PROPERTY LOCATED AT 2607 WEST COAST HIGHWAY (PA2025-0252)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Adam Koral (“Applicant”), on behalf of PCH Restaurant and Marina, LLC (“Owner”), concerning the property located at 2607 West Coast Highway, and legally described in Exhibit “A,” which is attached hereto and incorporated herein by reference (“Property”).
2. The Applicant requests a conditional use permit (“CUP”) to renovate an existing 5,260-square-foot restaurant space on the waterfront, formerly occupied by *GuacAmigos*, and operate a restaurant under the name “The Nice Guy” with a Type 47 (On-Sale General – Eating Place) Alcohol Beverage Control (“ABC”) license, live entertainment license, and late hour operations from 11:00 a.m. to 12:00 a.m., Monday through Saturday, and 9:30 a.m. to 12:00 a.m. on Sundays. A CUP is required to authorize a restaurant with alcohol service and late hour operations, which is defined by the Newport Beach Municipal Code (“NBMC”) as service provided after 11:00 p.m. The operator is also required to obtain an operator license from the Newport Beach Police Department (“NBPD”) pursuant to Chapter 5.25 (Operator License for Establishments Offering Alcohol Beverages for On-Site Consumption in Combination with Late Hours, Entertainment, and/or Dance) to offer alcoholic beverages for on-site consumption in combination with late hour operations and live entertainment (“Project”).
3. The Property has been developed with a 5,260-square-foot eating and drinking establishment (“Restaurant”) since 1968, with various subsequent operators and operational characteristics. The Restaurant obtained its first use permit (Use Permit No. UP3288) on August 20, 1987. The Planning Commission approved Use Permit No. UP3288 to authorize the use of compact parking spaces and on-site valet parking.
4. On March 19, 1998, the Planning Commission approved Use Permit No. UP3627 to allow for operational changes to the Restaurant including the addition of late hour operations (after 11:00 p.m.), and live entertainment.
5. On January 18, 2019, the Community Development Director approved Staff Approval No. SA2018-010, which allowed for an interior remodel of the Restaurant and the loss

of two parking spaces related to Americans with Disabilities Act (“ADA”) upgrades. At that time, the Restaurant operated under the name “GuacAmigos,” with a Type 47 (On-Sale General – Eating Place) ABC license, late hour operations, and live entertainment.

6. On July 27, 2020, the Community Development Director approved Emergency Temporary Use Permit No. UP2020-042, which allowed for an 1,836-square-foot outdoor dining patio within the parking lot during the COVID-19 pandemic. The outdoor dining patio has since been removed, and the temporary authorization has expired.
7. On October 26, 2023, the Zoning Administrator approved Minor Use Permit No. PA2023-0119 to allow an additional form of live entertainment, a DJ and/or pre-programmed amplified music, and eliminate late hour operations. This approval superseded all previous approvals but kept all conditions of approval applicable to Staff Approval No. SA2018-010.
8. The Property is designated as Mixed-Use Water 1 (MU-W1) by the Land Use Element of the General Plan and is located within the Mixed-Use Water (MU-W1) Zoning District.
9. The Property is located within the coastal zone. The Property is designated as Mixed-Use Water-Related (MU-W) by the Coastal Land Use Plan and is located within the Mixed-Use Water (MU-W1) Coastal Zoning District.
10. The Project does not require a coastal development permit (“CDP”) because the Property is already developed as a restaurant, and the proposed operational changes will not constitute an intensification of use that would be considered development.
11. A public hearing was held on March 5, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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 existing or former use. In this case, the Project proposes a tenant improvement to an existing restaurant and operational changes. The Project is not proposing an expansion of the existing restaurant or a meaningful intensification of use. Therefore, the Class 1 exemption is applicable.

SECTION 3. REQUIRED FINDINGS.

***Alcohol Sales***

In accordance with Section 20.48.030(C)(3) (Alcohol Sales) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales).*

Facts in Support of Finding:

1. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City:*
  - a. The Property is in Reporting District 25 (“RD 25”). RD 25 includes the commercial corridor along Old Newport Boulevard, the Mariners’ Mile corridor, and the residential neighborhoods north of Mariners’ Mile. RD 25 is abutted to the west by RD 24, to the east by RD 26, and to the south by RD 22 which encompasses the harbor with RD 15 beyond.
  - b. The NBPD is required to report Part One Crimes, combined with all arrests for other crimes, both felonies and misdemeanors except traffic citations, to the ABC. Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report as criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. In 2024, the most recent year for which data are available, the Crime Count for RD 25 was 172, which was 54% above the citywide average of 112. The Crime Count was 548 for RD 15, 306 for RD 24, and 157 for RD 26. While the crime count for RD 25 was lower than RD 15 and RD 24, it was still reported as a high crime area. The highest volume of crime in this area was theft/larceny, and the highest volume of arrests in the area was driving under the influence (“DUI”).
  - c. Because RD 25 had a 20% higher number of reported crimes than the citywide average, the area was found to have undue concentration.
  - d. While the area was found to have undue concentration, the Property has historically operated as a restaurant with alcohol service, live entertainment, and late hour operations. There were eight calls for service at this location in 2024. None of the calls were related to the operational characteristics, but one call was for alcohol. However, the proposed Restaurant has a new operator that intends to comply with all conditions of approval. Therefore, the NBPD does not object to the request subject to the appropriate conditions of approval. All NBPD recommended conditions of approval have been included in Exhibit “B” of this Resolution.

2. *The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*

a. Crime and Alcohol-related data for 2024 reflects the following numbers of arrests:

<b>Reporting District</b>	<b>Alcohol Related Arrests<sup>1</sup></b>	<b>Total Arrests</b>
RD 25	44	129
RD 15	175	425
RD 24	54	235
RD 26	22	107
Newport Beach	740	2,976
<sup>1</sup> Alcohol Related Arrests include DUI (alcohol), public intoxication, and liquor law related arrests.		

b. In RD 25, DUI, public intoxication, and liquor law violations make up 34% of arrests. In comparison, DUI, public intoxication, and liquor law violations make up 41% of RD 15 arrests, 23% of RD 24 arrests, and 21% of RD 26 arrests.

c. The NBPD has provided operational conditions of approval to help minimize any potential detrimental impacts and has no concerns with the request. Additionally, the Applicant will take appropriate action to discourage and correct objectionable conditions that constitute a nuisance.

3. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

a. The nearest residential zoning district is located 485 feet north of the Property on Tustin Avenue. The zoning district is separated from the Property by West Coast Highway which is a 5-lane highway, and multiple businesses.

b. The Project does not abut a religious facility, park, recreational facility, school, or similar use that attract minors. The nearest sensitive land use that attracts minors is the Bright Horizons day care center, located approximately 270 feet northeast of the Property at 2500 West Coast Highway. It is also separated from the Property by West Coast Highway.

4. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption*

a. There are seven businesses within 450 feet of the Restaurant that sell alcohol as illustrated in Table 1 below:

<b>Table 1: Active ABC Licenses within 450 feet of the Restaurant</b>		
<b>Business Name</b>	<b>Address</b>	<b>ABC License Type</b>
Sol Grill	2400 West Coast Highway	Type 41 (On-Sale Beer and Wine – Eating Place)

The House	2601 West Coast Highway	Type 57 (Special On-Sale General) and Type 58 (Caterer Permit)
The Shamrock Bar and Grill	2633 West Coast Highway	Type 47 (On-Sale General – Eating Place)
Rusty Pelican	2735 West Coast Highway	Type 47 (On-Sale General - Eating Place), Type 58 (Caterer Permit), and Type 68 (Portable Bar License)
Billy’s At The Beach	2751 West Coast Highway	Type 47 (On-Sale General - Eating Place) and Type 58 (Caterer Permit)
Newport Whaler	2800 West Coast Highway	Type 47 (On-Sale General - Eating Place)
Louie’s By The Bay	2801 West Coast Highway	Type 47 (On-Sale General - Eating Place)

- b. The Project is located within Census Tract 634. This census tract has a population of 4,776 residents with 17 active on-sale alcohol licenses. That is a per capita ratio of one on-sale license for every 281 residents. Compared to Orange County’s on-sale per capita ratio of one license for every 822 residents, this location meets the legal criteria for undue concentration pertaining to alcohol establishments pursuant to the Business and Professions code.
- c. The Project’s proximity to the other establishments is not a concern. The Property has historically operated as a restaurant that has also served alcohol for on-site consumption. As previously noted, the operational conditions of approval recommended by the NBPD will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

5. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

- a. No objectionable conditions are presently occurring at the Property. The previous operator, GuacAmigos, did not incur any citations or disciplinary actions related to its respective ABC license as noted on the Department of ABC website. While the previous operator had nine code enforcement cases, those violations were related to use permit violations involving outdoor dining, non-compliance with light standards, and offering live entertainment without approval. All violations were remedied and closed. There are no active code cases on the Property.

**Conditional Use Permit**

By Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- B. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The Property is designated as Mixed-Use Water 1 (MU-W1) by the Land Use Element of the General Plan. Mixed-Use Water 1 (MU-W1) is applied to waterfront locations along Mariners' Mile Corridor in which marine-related, commercial, visitor-serving, and residential uses are allowed. The Project is consistent with the Mixed-Use Water 1 (MU-W1) category as restaurants are visitor-serving and commercial uses.
2. The Project is consistent with the following General Plan Land Use policies applicable to the Project:
  - a. ***Land Use Element Policy LU 2.4 (Economic Development).*** *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents.*

The Project revitalizes an existing restaurant building to operate an Italian American themed restaurant with live entertainment throughout a weekly dinner service. The Restaurant intends to deliver a premium dining experience to visitors and residents of the City and continue contributing to the economic success of the Mariners' Mile Corridor.

- b. ***Land Use Element Policy LU 5.2.2 (Buffering Residential Areas).*** *Require that commercial uses adjoining residential neighborhoods be designed to be compatible and minimize impacts through such techniques as:*

*Incorporation of landscape, decorative walls, enclosed trash containers, downward focused lighting fixtures, and/or comparable buffering elements; Attractive architectural treatment of elevations facing the residential neighborhood; Location of automobile and truck access to prevent impacts on neighborhood traffic and privacy.*

Although the Property is not directly adjacent to a residential zoning district, there are residential neighborhoods nearby. The nearest residence is located approximately 485 feet north of the Property on Tustin Avenue. The residences on Tustin Avenue are not likely to perceive noise from the Restaurant, as it is separated from the Property by West Coast Highway and intervening structures. Furthermore, the existing parking lot is currently landscaped which provides partial screening of cars from West Coast Highway. There are residential homes approximately 800 feet south of the Property across the Newport Harbor and on Lido Isle. Several windows of the Restaurant face the harbor where noise can travel more efficiently across water. To alleviate any impact to adjacent or nearby properties on Lido Isle, all restaurant windows and doors facing the bay shall remain closed after 10:00 p.m. Illumination from the parking lot will be directed away from the residences as the

Property's existing parking lot is buffered by the Restaurant itself. Any proposed lighting fixtures shall be located, aimed, and maintained to shield adjacent properties and not produce glare onto nearby properties.

- c. ***Land Use Element Policy 6.19.2 (Bay Fronting Properties).*** *Encourages marine-related and visitor-serving retail, restaurant, hotel, institutional, and recreational uses, with some allowance for residential uses.*

The Project is revitalizing the existing restaurant space that has been vacant since late 2024. The Project intends to provide a premium dining experience for visitors and residents of Newport Beach. As the Restaurant is located on the waterfront, a new operator will attract customers who will be able to enjoy expansive harbor views.

- d. ***Land Use Element Policy 6.19.6 (Corridor Identity and Quality)*** *Implement landscape, signage, lighting, sidewalk, pedestrian crossing, and other amenities consistent with the Mariners' Mile Specific Plan District and Mariners' Mile Strategic Vision and Design Plan.*

***Land Use Element Policy 6.19.7 (Architecture and Site Planning).*** *While a diversity of building styles is encouraged, the form, materials, and colors of buildings located along the harbor front should be designed to reflect the area's setting and nautical history.*

The Mariners Mile' Strategic Vision and Design Plan is intended to provide guidance on appropriate architecture, landscape, and signage that respect the heritage of Mariners' Mile. In this case, the Applicant is proposing to replace the exterior façade with grey colored stucco, dark wood trim for exterior doors, and black with white-accent colored awnings, which is compatible with other surrounding properties in the corridor. The proposed color is considered a neutral tone, which is allowed in the design plan. The awnings, which are encouraged to be dark, create visual interest and contribute to a balanced composition along the building's exterior elevations. Nautical elements, which are consistent with the history and character of Mariners' Mile, are encouraged. The Applicant may use stainless steel, polished chrome, brass, and/or bronze as architectural features to incorporate nautical references.

- e. ***Noise Element Policy N 1.7 (Commercial/Entertainment Uses).*** *Limit hours and/or require attenuation of commercial/entertainment operations adjacent to residential and other noise sensitive uses in order to minimize excessive noise to these receptors.*

The Project will offer live entertainment daily until midnight which may include a piano, small ensemble, or DJ with amplified sound. Since the live entertainment will use amplified sound, a Noise Impact Study ("Study") was conducted by RK Engineering Group, Inc. dated October 14, 2025. The Study estimated the Project's expected noise levels during live entertainment and evaluated potential impacts to the nearest sensitive receptors. The Study analyzed projected noise levels during the day, when the restaurant's windows are expected to be open, and at night, when

the windows are expected to be closed. The Study's projected noise levels were compared to the standards provided in Section 10.26.025 (Exterior Noise Standards) of the NBMC. The Study concluded that the Project would not exceed the City's noise level standards nor would it create an increase in significant noise on the Property subject to certain recommendations. Condition of Approval No. 5 requires all doors and windows facing the bay be closed at 10:00 p.m., as recommended by RK Engineering Group, Inc., to ensure compliance with the City's noise level standards.

3. The Property is not located in a specific plan area.

Finding:

- C. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The Property is located within the Mixed-Use Water (MU-W1) Zoning District, which applies to waterfront properties along the Mariners' Mile Corridor in which nonresidential uses and residential dwelling units may be intermixed. Eating and drinking establishments with late hours are allowed in the MU-W1 Zoning District with the approval of a CUP.
2. Pursuant to Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) Table 2-9 (Allowed Uses and Permit Requirements), restaurants with alcohol sales are typically allowed in the MU-W1 with a minor use permit. However, because the Project proposes to operate daily with late hours (past 11:00 p.m.), a conditional use permit is required.
3. The MU-W1 land use category allows a floor area to land ratio ("FAR") of 0.5 for a commercial-only use. The Property complies with this requirement, as the lot is approximately 27,000 square feet in area and consists of a 5,260-square-foot single-story commercial building resulting in an FAR of 0.38 FAR. Furthermore, the Project will not increase the FAR.
4. The Project is an upscale, sit-down restaurant with food and drink options. Interior improvements to the Restaurant will provide approximately 1,184 square feet of dining area, a 140-square-foot bar area, 2,256 square feet of kitchen and back of house area, and approximately 115 square feet designated for live entertainment. As a result, the Restaurant will provide 114 seats in the dining area and 17 seats at the bar. The Project's proposed occupancy is 140.
5. Because the Project proposes a Type 47 ABC License in conjunction with late hours and live entertainment daily, Condition of Approval No. 39 is included to require that the operator obtain approval of an Operator License pursuant to Chapter 5.25 (Operator License for Establishments Offering Alcohol Beverages for On-Site Consumption in Combination with Late Hours, Entertainment, and/or Dance) of the NBMC. The Operator

License will be reviewed by the NBPD and will allow the opportunity for more restrictive conditions such as a security plan to regulate and control potential late-hour nuisances associated with the Project should it become necessary. The Project is not proposing any dancing.

6. On August 26, 2025, the City Council adopted Ordinance No. 2025-13 to amend the food service parking requirements for Title 21 (Local Coastal Program Implementation Plan) to be consistent with Title 20 (Planning and Zoning) of the NBMC. Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC requires one parking space per 100 square feet of gross floor area. The gross floor area of the Project is 5,260 square feet which requires 53 parking spaces. The Property's parking lot provides 55 parking spaces which includes three ADA spaces. Therefore, the Project meets the parking requirement. The existing parking lot is currently landscaped which provides partial screening from West Coast Highway.
7. Pursuant to Table 3-5 (Nonresidential Projects – Minimum Storage Areas Required) of Section 20.30.120 (Solid Waste and Recyclable Materials Storage) of the NBMC, structures with a GFA between 5,001 and 10,000 square feet require a 48-square-foot trash enclosure. The existing trash enclosure on the Property is approximately 130 square feet and complies with the minimum size requirement. Furthermore, the trash enclosure provides additional area to accommodate any additional waste generation common with restaurant uses.

Finding:

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

Facts in Support of Finding:

1. The Study conducted by RK Engineering Group, Inc. confirmed that live entertainment and late hour operations are not expected to generate noise levels that will negatively impact the nearby uses. The Property has not had any recent use permit violations or complaints related to noise levels. The staff report prepared in 2023 for PA2023-0119 indicated that there had been no calls for service for loud music or noise disturbances since January 1, 2019. From 2019 through 2023, the previous restaurant operated with both live entertainment and late hours, similar to the proposed Project. Furthermore, while the Project will have a new operator, lack of noise violations suggest that late hours and live entertainment can be successfully managed at this location. Should noise complaints arise, Condition of Approval No. 7 requires the operator to perform a follow-up noise study analysis to determine whether a violation is occurring and how the noise may be mitigated.
2. The Property is abutting the waterfront and is surrounded by a number of restaurants with a wide range of operating hours. Several of these restaurants, ARC Carne & Cantina, Billy's At The Beach, Newport Whaler, Shamrock Bar and Grill, and The House are authorized to provide alcoholic beverages for on-site consumption and operate with

late hours. Currently, Billy’s At the Beach, Newport Whaler, The Winery Restaurant and Bar, and The House are authorized to operate up until 2:00 a.m. In comparison, the Applicant is requesting to operate until 12:00 a.m., which is well within the range of previous City approvals.

3. The Property was previously approved through Use Permit No. UP3627 to operate with late hours, live entertainment, and the sale of alcoholic beverages for on-site consumption. Given the operational history of the Property and the presence of similar restaurants within Mariners’ Mile Corridor, the Project is not anticipated to be incompatible with the nearby commercial and residential properties.

Finding:

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

Facts in Support of Finding:

1. The Property is approximately 113 feet wide by 240 feet deep, 27,120 square feet in area, is developed with a 5,260-square-foot single-story commercial building and is served by existing utilities. The Project will take over the existing space and operate consistent with historic approvals for late hours, live entertainment, and alcoholic beverage service.
2. The Property is developed with diagonal parking. The Project site features a “one-way” circulation pattern with vehicles entering from the westerly driveway and exiting through the easterly driveway.
3. The Building Division, Public Works Department, and Fire Department have reviewed the Project to ensure adequate public and emergency vehicle access is provided and do not have any concerns with the Project.

Finding:

- F. *Operation of the use at the location proposed 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 proposed use.*

Fact in Support of Finding:

1. The Project is anticipated to be an amenity to the surrounding area by providing dining as a public convenience to nearby businesses, residents, and visitors of the area. The Project will provide an opportunity for the property owner to secure a new tenant, eliminate a vacancy, and reinvest in the Property.

2. Appropriate conditions of approval have been included to protect the general welfare of the nearby area. Specifically, Condition of Approval Nos. 41 and 43 ensure that the Project shall serve food until closing and cannot operate as a bar, tavern, cocktail lounge, or nightclub, thereby helping to eliminate the potential of becoming a hazard to the general welfare of the nearby area.
3. Condition of Approval No. 40 requires all owners, managers, and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. The certified program must meet the standards of the certifying/licensing body designated by the State of California and records of successful completion shall be maintained on the premises.
4. The Project has been reviewed by the NBPD and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance related to litter and graffiti on the exterior of the building and noise generated by the Project.
5. Fact 5 in Support of Finding C is hereby incorporated by reference.
6. Facts 1 in Support of Finding D is hereby incorporated by reference.

***Late Hour Operations***

Pursuant to Section 20.48.090(G)(3)(a) (Eating and Drinking Establishments) of the NBMC, the Planning Commission must consider the following potential impacts upon adjacent or nearby uses when reviewing an application to allow late-hour operations:

Finding:

- G. *Consider potential impacts from music, dancing and voices associated with allowed indoor and outdoor uses and activities upon adjacent or nearby uses.*

Facts in Support of Finding

1. The Restaurant operations are fully indoors and no outdoor dining is proposed. The Property has previously operated as a restaurant with late hours in conjunction with live entertainment, dancing, and singing which did not receive use permit violations from the City's Code Enforcement Division related to noise levels. Therefore, the Project is not anticipated to generate impacts to adjacent or nearby uses.
2. Fact 2e in Support of Finding B is hereby incorporated by reference.

Finding:

- H. *Consider potential impacts from high levels of lighting and illumination upon adjacent or nearby uses.*

Fact in Support of Finding:

1. The Project does not propose high levels of new lighting or illumination. Standard conditions of approval are included in Exhibit "B" of the resolution to ensure compliance with Section 20.30.070 (Outdoor Lighting) of NBMC. The Applicant shall ensure any proposed lighting fixtures be designed, shielded, aimed, located and maintained to shield adjacent properties and not produce glare onto adjacent properties or roadways.

Finding:

- I. *Consider potential impacts from increased pedestrian and vehicular traffic activity during late night and early morning hours upon adjacent or nearby uses.*

Fact in Support of Finding:

1. The Property provides sufficient parking with 55 available parking spaces on site when only 53 are required. The City's Public Works Department does not anticipate the Project to create pedestrian or vehicular traffic impacts, as the Property has historically operated as a restaurant with late hours and live entertainment. Condition of Approval No. 35 requires the restaurant operator to ensure vehicles do not queue onto the public right of way. Additionally, signage requesting patrons to keep noise to a minimum will be placed in the Property's parking lot to minimize potential noise impacts.

Finding:

- J. *Consider potential impacts from increased trash and recycling collection activities upon adjacent or nearby uses.*

Fact in Support of Finding:

1. The Project is not anticipated to need additional trash collection as the existing trash enclosure on site provides more than double the minimum requirement.

Finding:

- K. *Consider potential impacts from occupancy loads of the use upon adjacent or nearby uses.*

Fact in Support of Finding:

1. The Project is anticipated to be less impactful than previous operators, as it is reducing the occupancy load from 196 persons to 140 persons.

Finding:

- L. *Consider potential impacts from any other factors that may affect adjacent or nearby uses*

Fact in Support of Finding:

1. There are no new potential impacts from any other factors that may affect adjacent or nearby uses.
2. Facts 1, 2, and 3 in Support of Finding D are hereby incorporated by reference.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. PA2025-0252, subject to the conditions outlined in "Exhibit B," which is attached hereto and incorporated by reference.
3. This resolution supersedes all previous approvals, which upon vesting of the rights authorized by the conditional use permit filed as PA2025-0252, shall become null and void.
4. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk by the provisions of Title (20 Planning and Zoning) of the NBMC.

**PASSED, APPROVED, AND ADOPTED THIS 5<sup>TH</sup> DAY OF MARCH 2026.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Tristan Harris, Chair

BY: \_\_\_\_\_  
Jon Langford, Secretary

**EXHIBIT "A"**

LEGAL DESCRIPTION

APN: 049-150-27

Parcel 1:

The Northwesterly 87.99 feet of the Southeasterly 1,387.99 feet of Lot "H" of Tract No. 919, in the City of Newport Beach, County of Orange, State of California, as shown on a map thereof recorded in Book 29, Pages 31, 32, 33 and 34 of Miscellaneous Maps, records of said Orange County, said footage being measured along the Southwesterly line of said Lot "H" and the Northwesterly and Southeasterly lines of said 87.99 feet, being parallel with the Northwesterly line of said Lot "H".

Parcel 2:

The Southeasterly 25 feet of the Northwesterly 575 feet of Lot "H" of Tract No. 919, as shown on a map thereof recorded in Book 29, Pages 31, 32, 33 and 34 of Miscellaneous maps, records of said Orange County, said 575 feet being measured along the Southwesterly line of said Lot "H" and the Southeasterly line thereof being parallel with the Northwesterly line of said Lot "H".

Excepting any of Parcels 1 and 2 which was formerly tidelands lying Southerly and Waterward of the U.S. Bulkhead line between Stations U.S. 129 and U.S. 130 which is also the mean high tide line established in Orange County Superior Court Case No. 23687.

Commonly known as 2607 West Coast Highway, Newport Beach, California

INTENTIONALLY BLANK PAGE

**EXHIBIT “B”**

CONDITIONS OF APPROVAL

*(Project-specific conditions are in italics)*

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may cause the revocation of this Use Permit.
4. *The hours of operation shall be limited to between 11:00 a.m. and 12:00 a.m. Monday through Saturday, and between 9:30 a.m. and 12:00 a.m. on Sundays.*
5. *During any live entertainment, amplified music, or DJ event after 10:00 p.m., all doors and windows facing the bay shall remain closed.*
6. *There shall be no live entertainment allowed on the premises without first obtaining a live entertainment permit from the City.*
7. *Should noise complaints arise, the Operator shall perform a follow-up analysis to determine whether a violation is occurring and how the noise would be mitigated, if needed.*
8. *Approval of this Use Permit shall supersede the conditions of approval from all previous approvals.*
9. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or leasing agent.
10. *The owner/operator shall post signs at clearly visible locations on the establishment at the on-site parking area under the owner/operator’s control. The signs shall request patrons to keep noise to a minimum. The design of the sign shall be in accordance with the Mariners’ Mile Strategic Vision and Design Framework Guidelines.*
11. This Use Permit may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.

12. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
13. A copy of this Resolution, including these conditions of approval, shall be incorporated into the Building Division and field sets of plans before issuance of the building permits.
14. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, in the opinion of the Director of Community Development, the illumination shall not create an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
15. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control), under Sections 10.26.025 (Exterior Noise Standards) and 10.26.030 (Interior Noise Standards), and other applicable noise control requirements of the Newport Beach Municipal Code (“NBMC”).
17. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m. Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Federal holidays.
18. No outside paging system shall be utilized in conjunction with this establishment.
19. All trash shall be stored within the building, within dumpsters stored in the trash enclosure comprised of three walls and a self-latching gate, or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
20. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
21. The exterior of the business shall be always maintained and free of litter and graffiti. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
22. The operator shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters

or periodic steam cleaning of the dumpsters if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14 including all future amendments and Water Quality related requirements.

23. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development. Such approval may require an amendment to this Use Permit.
24. Storage outside of the building, in the front, or at the rear of the property shall be prohibited except for the required trash container enclosure.
25. A Special Events Permit is required for any event or promotional activity outside the normal operating characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the NBMC to require such permits.
26. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the NBMC.
27. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 Nice Guy Restaurant including, but not limited to conditional use permit (PA2025-0252)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing the such proceeding. The applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

### **Fire Department**

28. The tenant improvement shall require fire alarm alterations and occupant notification per the 2025 National Fire Protection Agency (NFPA) 72.

- 29. Kitchen appliances and line-up changes shall comply with 2024 NFPA17A for fixed fire suppress systems.
- 30. Carbon dioxide systems for beverage dispensing shall comply with 2025 California Fire Code 5307.

**Building Division**

- 31. A five percent minimum of one accessible seating shall be required per each type of seating.
- 32. An accessible path of travel shall be required from the parking area and public right-of-way per Chapter 11B Section 202.4 of the California Building Code.
- 33. The plumbing fixture count shall comply with California Plumbing Code Table 422.1

**Public Works Department**

- 34. Parking layout shall comply with City Standard 805.
- 35. The operator shall prevent vehicles from queuing onto the public right of way.

**Newport Beach Police Department**

- 36. The approval is for a restaurant with on-sale alcoholic beverage services. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control (“ABC”) shall be a Type 41 (On-sale Beer & Wine – Eating Place) or Type 47 (On-Sale General – Eating Place) license in conjunction with the restaurant as the principal use of the facility.
- 37. The Applicant shall comply with all federal, state, and local laws, and all conditions of the ABC License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the Conditional Use Permit.
- 38. *The establishment shall close at 12:00 a.m., daily with the exception of New Year’s Eve.*
- 39. *Prior to commencement of late hour operations or live entertainment, the operator of the establishment shall secure, maintain, and abide by an Operator License pursuant to Chapter 5.25 (Operator License for Establishments Offering Alcoholic Beverages for On-Site Consumption in Combination with Late Hours, Entertainment, and/or Dance) of the NBMC.*
- 40. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible beverage service within 60 days of hire. The certified program must meet the standards of the State of California. The establishment shall comply with the requirement of this section within 60 days of approval. Records of each owner’s and employee’s successful completion of the

required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

41. Food service shall be made available to patrons until closing.
42. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink requirement or the sale of drinks, is prohibited excluding charges for prix fixe meals.
43. Approval of this Conditional Use Permit does not permit the establishment to operate as a bar, tavern, cocktail lounge, or nightclub, as defined by the NBMC.
44. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
45. There shall be no reduced-price alcoholic beverage promotion after 9:00 p.m.
46. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
47. The sale of alcoholic beverages for consumption off the premises is prohibited.
48. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
49. There shall be no dancing allowed on the premises.
50. The removal or relocation of tables, chairs, stools, or other furniture to accommodate an area for standing or dancing shall be prohibited.
51. Any event or activity staged by an outside promoter or entity, where the Applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person is prohibited.
52. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide daily removal of trash, litter, and debris from the premises, and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
53. Strict adherence to maximum occupancy limits shall be required.
54. The Applicant shall maintain a security recording system with a 30-day retention and make those recordings available to the City upon request.

INTENTIONALLY BLANK PAGE