

Attachment No. PC 3

The Nice Guy Project Description

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The Nice Guy Newport Beach
Conditional Use Permit and Operator's License

Project Information

2607 West Coast Highway

APN: 049-150-27

Lot Area: 27,001 sq. ft.

Zoning District: Mixed-Use Water (MU-W1)

General Plan: Mixed-Use Water 1 (MU-W1)

Coastal Land Use: Mixed-Use Water Related (MU-W)

Coastal Zoning: Mixed-Use Water (MU-W1)

Project Description/Background

The Nice Guy Newport, LLC ("Applicant") requests approval of a Conditional Use Permit and Operator's License to allow an upscale full-service eating and drinking establishment (late hours) with a Type 47 (On-sale General) ABC license and accessory live entertainment in an existing restaurant space that featured live entertainment and alcohol. The Nice Guy Newport Beach is an Italian American themed restaurant featuring lounge style singers throughout the weekly dinner service. The Nice Guy is a premium dining experience featuring classic Italian American fare such as crudos, meatballs, pastas, pizzas, steaks and chicken parmesan.

The subject property is currently developed with a 5,260 square foot restaurant building that has been operated by several entities since 1968, including most recently by Guacamigos and The Crab Shack. The prior uses had approval from the City for a Type 47 ABC license and live entertainment. Proposed interior improvements include new dining seating, furniture, a small stage, flooring, lighting, paint and finishes. Exterior minor cosmetic improvements include a new roof, siding, entry canopy, stucco and paint. No additional floor area is proposed and structural alterations are minimal. The proposed restaurant use represents a decrease in intensity from the prior use as the occupancy load is being reduced from 182 persons to 140 persons. The existing surface parking lot provides 58 parking spaces which exceeds the 53-parking space requirement.

Proposed hours of operation are:

Monday - Saturday: 11:00 a.m. – Midnight

Sunday: 9:30 a.m. - Midnight

Proposed live entertainment includes a piano, DJ or small ensemble which will be ancillary to the primary restaurant use. Dancing is not proposed. Please refer to sheet A-6.2 to see the proposed floor plan and location of the small stage.

Conditional Use Permit Findings and Justification for Approval

In accordance with Newport Beach Municipal Code ("NBMC") Section 20.52.020(F) (Findings and Decision) The review authority may approve or conditionally approve a conditional use permit only after first finding all of the following:

Finding:

A. The use is consistent with the General Plan and any applicable specific plan;

- The property is categorized as Mixed Use Water (MU-W1) by the General Plan Land Use Element. The MU-W1 land use designation encompasses waterfront properties along the Mariner's Mile Corridor, in which marine-related, visitor-serving, commercial and residential uses are intermixed with buildings that provide residential uses above the ground floor.
- The property has been developed with a restaurant since 1968 and the continued use of the property and building as a visitor serving use is consistent with the MU-W1 land use category.
- The property is not a part of a specific plan area.

Finding:

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

- Pursuant to NBMC Section 20.22.020 Mixed-Use Zoning Districts and Permit Requirements, Table 2-8), Eating and Drinking Establishments, Food Service with alcohol service and with late hours and live entertainment are allowed uses in the MU-W1 (Mixed-Use Water) zoning district subject to the approval of a conditional use permit.
- The existing restaurant with the proposed minor improvements are consistent with the purpose of the MU-W1 zoning district, and replaces a former restaurant that featured live entertainment and alcohol. The upgraded restaurant will provide residents and visitors with an exceptional dining experience with harbor views while contributing to the vibrant and iconic Mariners Mile corridor.
- Code required parking is provided within a large onsite surface parking lot that provides 58 parking spaces (including ADA space) where 53 parking spaces are required.
- Restaurant operations will comply with applicable provisions of NBMC 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 NBMC.

- Lighting will be in compliance with applicable standards of the NBMC including Section 20.30.070 (Outdoor Lighting).
- The proposed live entertainment is ancillary to the restaurant use and is intended to provide ambience to the dining experience. This amenity will contribute to the success of the restaurant and allow it to successfully operate not only during the peak summer season, but also during the slower shoulder and off-season times of the year.
- The proposed development complies with all applicable development standards including parking, height limits and setbacks. Please refer to plans for additional details.

Finding:

C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;

- Restaurant uses are common along the Mariners Mile Corridor and contribute to the community character and are economic stimulants. A restaurant has been operating at this location since 1968 and has proven compatible with surrounding land uses.
- Live entertainment will remain ancillary to the primary use of the site as a restaurant.
- Restaurant operations will comply with applicable provisions of NBMC 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 NBMC.
- To ensure compatibility with the surrounding land uses, the restaurant will operate pursuant to the recommendations in the sound study prepared by RK Engineering Group (October 14, 2005)
- Applicant will maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol are under its control and continue to abide by all applicable regulations of the State Department of Alcoholic Beverage Control.

- All owners, managers, and employees selling alcohol will be required to complete a certified training program in responsible methods and skills for selling alcoholic beverages.
- The restaurant will remain accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
- The restaurant will continue to adhere to applicable State of California and Orange County Health Care Agency guidelines for safe restaurant operations.
- The operator will obtain an Operator License as required to be approved by the Newport Beach Police Department. The operator is committed to abiding by the requirements of this license and any other regulatory permits and licenses.
- On-site security plans include procedures for security personnel, including occupancy control, alarms and video recording to deter illicit activities.

Finding:

- D. 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; and
- The Property is approximately 0.62-acres in size and is adjacent to West Coast Highway and is developed with a 5,260 square foot restaurant building and a 58-space surface parking lot. The site has accommodated a restaurant use for decades and has proven physically suitable.
 - The Property is located on West Coast Highway between Riverside Avenue and Tustin Avenue, within the Mariner's Mile Corridor. The on-site parking lot is accessible to patrons and employees from West Coast Highway and provides 58 parking spaces, which exceeds the code requirement of 53 parking spaces. No changes are proposed to the existing parking lot configuration, and the parking lot has proven to be adequate to serve past restaurant tenants.
 - The existing restaurant is located within an existing commercial building serviced by all necessary utilities. Minor interior alterations and exterior upgrades are proposed. Exterior improvements include a re-roof and upgrades to exterior finishes and minor architectural features and paint.
 - The site provides both safe and compliant pedestrian, ADA and vehicular access.
 - Adequate emergency vehicle and personnel access is provided directly from West Coast highway.

Finding:

- E. Operation of the use at the proposed location 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.
- The restaurant building was originally constructed in 1968 and has been operating as a food service use ever since. The continued use of the property as a restaurant is expected and will not impede use and enjoyment of other properties in the area.
 - Restaurant operations will comply with applicable provisions of NBMC 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 NBMC.
 - To ensure compatibility with the surrounding land uses, the applicant will operate pursuant to the recommendations in the sound study prepared by RK Engineering Group (October 14, 2005)
 - The restaurant will comply with all Alcoholic Beverage Control (ABC) requirements. All owners, managers, and employees selling alcohol will be required to complete a certified training program in responsible methods and skills for selling alcoholic beverages.
 - The restaurant will operate in compliance with applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use.
 - All improvements and upgrades will comply with the California Building Code, the California Fire Code, and all other applicable laws and ordinances to ensure the safety and welfare of customers and employees.
 - An Operator License is required, and restaurant management will be required to abide by the NBPD's approved security plan.
 - The restaurant will close by 12:00 a.m. (midnight), daily. The closing hours will help to ensure there is no detriment to nearby land uses.
 - The business operator is committed to taking reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

- The Project will not result in a detriment to the existing retail, service, and residential uses of the surrounding area.

California Environments Quality Act

- This Project is categorically exempt pursuant to Title 14 of the California Code of Regulations pursuant to Section 15301, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) because it has no potential to have a significant effect on the environment.
- 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 use. The subject application is a request to modify hours and operations of an existing restaurant with no expansion of the existing use on the project site.

About The h.wood Group

The h.wood Group is a Los Angeles-based, hospitality and lifestyle marketing company with an iconic portfolio of luxury nightlife and restaurant venues. The vision of longtime friends John Terzian and Brian Toll, The h.wood Group was founded in 2008 as a way for the consummate hosts and entrepreneurs to bring their high-end, thoughtful concepts and passion for service to life.

From Delilah and The Nice Guy to Bootsy Bellows and Harriet's, The h.wood Group is responsible for some of the most iconic brands in the world. With eleven venues in Southern California, three across the country and six new ones on the horizon, The h.wood Group is rapidly expanding thanks to its multi-concept portfolio uniquely positioned to cater to different markets. This growth is guided by the brand's core values – distinct design, exceptional service and palpable atmosphere – which combine to create extraordinary moments for every guest.

The h.wood Group is excited to bring our concept to Newport Beach and look forward to serving residents and visitors to Newport Beach and contributing to the ongoing economic success of Mariner's Mile.

The application submittal package includes the following documents:

- Owners Affidavit for a Conditional Use Permit
- Project plans including site plans and floor plans.
- Public notice notification package
- Preliminary Title Report
- Operator License Application with Security Plan