



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

June 6, 2019
Agenda Item No. 2

SUBJECT: Sessions Sandwiches Patio Expansion (PA2018-241)
▪ Minor Use Permit No. UP2018-022
▪ Coastal Development Permit No. CD2018-094

SITE LOCATION: 2823 Newport Boulevard

APPLICANT: Sessions Sandwiches Newport Beach, LLC

OWNER: Michelle Wagner

PLANNER: David S. Lee, Assistant Planner
949-644-3225, dlee@newportbeachca.gov

PROJECT SUMMARY

The applicant proposes to add a 130-square-foot outdoor dining area with alcohol service to an existing eating and drinking establishment (restaurant). The existing restaurant currently operates with a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) Alcoholic Beverage Control (ABC) license and has hours of operation between 6:00 a.m. and 9:00 p.m., daily. No other operational changes are requested or proposed.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2019-016 approving Minor Use Permit No. UP2018-022 and Coastal Development Permit No. CD2018-094 (Attachment No. PC 1).

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Sessions Sandwiches Patio Expansion (PA2018-241)
Planning Commission, June 6, 2019
Page 2



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Visitor Serving Commercial (CV)	Commercial Visitor-Serving (CV)	Food Service and Dry Cleaning
NORTH	CV	CV	Retail and Office
SOUTH	CV	CV	Retail and Office
EAST	CV	CV	Retail, Office, and Mixed Use
WEST	Public Facilities (PF)	Public Facilities (PF)	Municipal Parking Lot

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INTRODUCTION

Project Setting

The subject property is located on the Balboa Peninsula at the intersection of 29th Street and Newport Boulevard in the Cannery Village area. The property is developed with a 4,426-square-foot, two-story, two-tenant building and an 11-space parking lot. Sessions Sandwiches occupies the two-story tenant space on the eastern half of the property using the ground floor as dining area and the second floor as office and storage space. An existing dry cleaning facility will continue to occupy the adjoining single-story tenant space on the western half of the property. Of the 11 parking spaces provided, one space was striped out, resulting in only 10 spaces provided on-site. Surrounding uses include retail and office to the north, south, and east, and a municipal parking lot to the west. Residential properties are located further beyond to the west.

Background

On September 12, 2013, Minor Use Permit No. UP2013-012 was approved by the Zoning Administrator to allow establishment of the restaurant, which consisted of 523 square feet of net public area (N.P.A.) and hours of operation between 6:00 a.m. and 11:00 p.m., daily. Conditions of approval required improvements to the parking lot, driveway approaches, and trash enclosure. No alcohol service, late hours (after 11:00 p.m.), or outdoor dining were proposed at that time.

On March 5, 2015, Minor Use Permit No. UP2014-050 was approved by the Planning Commission to authorize beer and wine sales (Type 41 ABC license) and reduce the hours of operation to between 6:00 a.m. and 9:00 p.m., daily.

On October 22, 2018, an application was submitted to amend the approved Minor Use Permit to add a 130-square-foot outdoor dining area with alcohol service.

On May 16, 2019, the Zoning Administrator reviewed the proposed outdoor dining area with alcohol service. Public correspondence of support and opposition was provided to the Zoning Administrator (Attachment PC 3). At the conclusion of the hearing, the Zoning Administrator directed the application to the Planning Commission for consideration and review based on public concern regarding the expansion of alcohol service on the proposed patio (Attachment No. PC 4).

Project Description

The proposed outdoor dining area would consist of a 130-square-foot patio with seating for nine patrons as an expansion into the southeast corner of the parking lot where one parking space is currently striped out. A 3-foot high barrier would be constructed on all

four sides of the patio and a trellis roof would provide shade for patrons. A 2-foot high planter will provide a separation barrier between the outdoor dining area and the sidewalk adjacent to Newport Boulevard.

The applicant is proposing to have food and alcohol service in the outdoor dining area, and service would be provided during the same hours of operation as the restaurant, between 6:00 a.m. and 9:00 p.m. daily.

DISCUSSION

Analysis

General Plan and Local Coastal Plan

The subject property is designated Visitor Serving Commercial (CV) within the Land Use Element of the General Plan and Coastal Land Use Plan. These designations are intended to provide for accommodations, goods, and services primarily serving visitors to the City of Newport Beach. The existing restaurant includes alcohol sales and service to the restaurant and is consistent with the CV designation as it is intended to provide service not only to visitors, but also to residents within the immediate neighborhood and surrounding area. The proposed outdoor dining area will remain consistent with the General Plan designation, as it will provide additional outdoor seating for the restaurant.

Zoning Code

The subject property is located within the Commercial Visitor-Serving (CV) zoning district and Coastal Zoning District. Food service, eating and drinking establishments which include the service of alcoholic beverages and no late hours (after 11:00 p.m.) are permitted subject to the approval of a minor use permit pursuant to Zoning Code Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements). The proposal is to add a 130-square-foot outdoor dining area to an existing restaurant and the activity is consistent with the purpose of the CV zoning district.

Parking

The proposed location of the outdoor dining area is in an existing parking space in the southeastern corner of the parking lot that is currently striped out. As a result, 10 parking spaces will be provided for all uses at the property.

Current Parking Requirements

As established by the restaurant's original use permit (UP2013-012), the parking for the restaurant is considered legal nonconforming due to parking because 11 parking spaces are provided on-site, whereas, based on a parking ratio for the previous retail use of one space per 250 gross square feet (sq. ft.), a total of 14 parking spaces (3,307 sq. ft./250 =

13.2 = 14) were required. Pursuant to Newport Beach Municipal Code (NBMC) Chapter 20.38.060 (Nonconforming Parking), uses at a site with nonconforming parking in a nonresidential zoning district may be changed to new uses allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g. increase in floor area) occurs. The restaurant was approved with a parking rate of one space per 40 square feet of N.P.A. With this ratio, 14 spaces (523 sq. ft. of N.P.A./40 = 13.1 = 14) would also be required on-site; therefore, the use was found not to intensify the parking requirement above what was required for the previous retail use, as illustrated by Table 1 below:

Table 1: No Intensification of Parking

Land Use	Parking Rate	Floor Area	Spaces Required
Previous Retail	1 per 250 sq. ft.	3,307 sq. ft.	13.2 = 14
Current Restaurant	1 per 40 sq. ft. (N.P.A.)	523 sq. ft. (N.P.A.)	13.1 = 14

The existing commercial center is occupied by the subject restaurant and a dry cleaning facility. The dry cleaning facility, which was authorized by a use permit (UP3431) on October 24, 1991, has a parking rate of one space per 250 square feet of gross floor area. With this ratio, 9.4 spaces are required. Combined with the required restaurant parking (13.1), 23 total spaces (9.4 + 13.1 = 22.5 = 23) would be required on-site. Since 11 spaces are currently provided, the site has a parking deficit of 12 parking spaces and is considered legal nonconforming, as illustrated by Table 2 below:

Table 2: Current Parking

Land Use	Parking Rate	Floor Area	Spaces Required
Current Restaurant	1 per 40 sq. ft. (N.P.A.)	523 sq. ft. (N.P.A.)	13.1
Dry Cleaning	1 per 250 sq. ft.	2,338 sq. ft.	9.4
Total Spaces Required			22.5 = 23
Total Spaces Provided			11
Total Parking Deficit			12

Proposed Parking Requirements

Pursuant to Sections 20.40.040 and 21.40.040 (Off-Street Parking Spaces Required) of the Municipal Code, parking required for restaurant uses may range from a rate of one space per 30 square feet to one space per 50 square feet of interior N.P.A. based on physical and operational characteristics of the proposed establishment. No additional parking is required for outdoor patio areas that are less than 25 percent of the interior N.P.A.

Although the outdoor dining area will result in the permanent loss of one space, staff has re-examined the required parking for the restaurant and concluded that a parking rate of one space per 44 square feet of N.P.A. is appropriate in this case based on a parking

study prepared by LSA dated March 22, 2019 (Attachment No. PC 5) and the following location and operational characteristics of the proposed use:

- 1) There is no live entertainment or dancing and no presence of pool tables and other attractions;
- 2) The proposed 130-square-foot outdoor patio is less than 25 percent of the interior N.P.A.;
- 3) Due to the restaurant's location on the Balboa Peninsula, which consists of higher density residential and close proximity to the beach, a higher percentage of customers are expected to walk or bike to the restaurant. As observed by the parking study, more than 25 percent of observed customers arrived by a travel mode not requiring a parking space; and
- 4) The observed parking demand revealed that during peak hours, there were still vacant parking spaces in the parking lot to accommodate the restaurant and the dry cleaning customers.

With a required parking rate of one space per 44 square feet of N.P.A., the total parking required between the restaurant and dry cleaning facility is 22 spaces ($11.9 + 9.4 = 21.3 = 22$). Since 10 spaces are proposed, the parking lot would remain deficient by 12 parking spaces. The addition of the outdoor dining area would not intensify the nonconforming parking deficit, allowing for the loss of one on-site space to accommodate the patio, as illustrated by Table 3 below:

Table 3: Proposed Parking

Land Use	Parking Rate	Floor Area	Spaces Required
Proposed Restaurant	1 per 44 sq. ft. (N.P.A.)	523 sq. ft. (N.P.A)	11.9
Patio	1 per 44 sq. ft. (for area in excess of 25% of interior N.P.A.)	130 sq. ft.	0
Dry Cleaning	1 per 250 sq. ft.	2,338 sq. ft.	9.4
Total Spaces Required			21.3 = 22
Total Spaces Provided			10
Total Parking Deficit			12

Parking Study Considerations

The parking study provided observations from March 8, 2018 and February 16, 2019. The statistics provided from the observations are representative of the parking conditions throughout the majority of the year, except for peak summer months and holidays. During these periods when parking is heavily impacted throughout the peninsula, the restaurant functions as a convenience to visitors who are already in the area.

The parking study observed that some customers of both the restaurant and dry cleaning facility parked within the six on-street metered spaces located immediately adjacent to the building along each side of Newport Boulevard for convenience; however, when taking into account the peak parking demand based on all areas where customers were observed parking (including the metered street spaces), a total demand of nine parking spaces was observed. The study concludes that this observed peak parking demand of nine spaces can be accommodated by the 10 parking spaces remaining after construction of the outdoor dining area. The remaining tenth parking space accommodates any additional parking demand generated by the outdoor dining area due to the significant amount of walk-up and bike-up traffic to the restaurant. No impacts related to parking are anticipated.

Impacts to Reporting District 15 and Review of Past Operations

The proposed restaurant is located within Police Reporting District (RD) 15, which stretches from 20th Street to 37th Street along the Newport Beach Peninsula. RD15 is reported to ABC as a high crime area as compared to other reporting districts in the City. The proposed location meets the legal criteria for undue concentration as it relates to crime and the over-saturation of alcohol licenses.

The Police Department has provided a Memorandum regarding the proposed outdoor patio dining area (Attachment No. PC 6). The Police Department has no records of any alcohol-related calls for service in the past 24 months related to the restaurant's business operation. The Police Department has also provided a summary of calls for service to the subject property (Attachment No. PC 7). There are no records of noise complaints at the restaurant in the police dispatch call logs and no evidence that the restaurant contributes to the burden on police resources. Therefore, despite its location in RD15, the Police Department has no objections to the outdoor dining area and outdoor alcohol service, as the business is not expected to be a burden on police resources due to its business operations and limited hours (6:00 a.m. and 9:00 p.m., daily).

Code Enforcement has had a small number of cases with the restaurant since its opening in 2014, which were all subsequently resolved. These cases include minor work without permits and an issue with the trash enclosure overflowing. No Code Enforcement cases for the restaurant were related to alcohol or noise issues.

Findings for Minor Use Permit

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits), the Planning Commission must make the following findings for approval of a minor use permit:

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

2. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
3. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*
4. *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*
5. *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.*

Staff believes sufficient facts exist in support of each finding. The project site is physically suitable for an outdoor dining area and it will serve both residents and visitors in the neighborhood. As conditioned, the restaurant is expected to operate in an effective manner that is compatible with the surrounding commercial and residential uses nearby.

As previously indicated, the existing restaurant is consistent with the CV designation as it is intended to provide service not only to visitors, but also to residents within the immediate neighborhood and surrounding area. The proposed outdoor dining area will remain consistent with the General Plan designation, as it will provide additional outdoor seating for the restaurant.

The restaurant will continue to adhere to the existing hours of operation between 6:00 a.m. and 9:00 p.m., daily, consistent with the hours of other similar establishments and uses in the commercial area. The restaurant, including the proposed outdoor dining area, is required to comply with the City's noise ordinance and no outside paging system or outside amplified music is allowed. In addition, the applicant shall receive the necessary approval from ABC to serve alcohol in the outdoor dining area prior to the sale and consumption of alcohol within the patio. As previously discussed, although the outdoor dining area will result in the loss of one on-site parking space, it does not result in the intensification of the nonconforming parking deficit due to the change in parking requirements and observed and anticipated parking demand of the use with the patio.

The City's Traffic Engineer has reviewed the proposed outdoor dining area for traffic safety visibility. There are no objections to the location of the outdoor dining structure, as it has been set back from the sidewalk adjacent to Newport Boulevard to avoid traffic visibility issues with oncoming motorists.

Lastly, the restaurant has operated since 2014, including alcohol service since 2015, without major problems or complaints. The Police Department does not view the

restaurant as a burden to its resources and has no objections towards the alcohol service in the outdoor dining area.

Findings for Coastal Development Permit

The subject property is located within the Coastal Zone. In accordance with Section 20.52.015.F (Coastal Development Permits), the Planning Commission must also make the following findings for approval of a coastal development permit:

1. *Conforms to all applicable sections of the certified Local Coastal Program;*
2. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Pursuant to Section 21.20.020 (Commercial Coastal Zoning Districts Land Uses, Table 21.20-1) of the Implementation Plan, eating and drinking establishments located in the CV Coastal Zoning District that are classified as *Food Service, No Late Hours*, are allowed uses. The Minor Use Permit is for a property within a developed neighborhood that is approximately 600 feet from the harbor and is not near any natural landforms or environmentally sensitive areas.

The project site is not located between the nearest public road and the sea or shoreline and approval of the Minor Use Permit will not affect public recreation, access or views. The subject property is located a large distance from the public beach (+800 feet) and harbor (+600 feet), and is not located near a public viewpoint designed by the Coastal Land Use Plan. As stated in the parking study, the 10 parking spaces on-site are adequate to accommodate the total observed peak parking demand of nine spaces including any additional demand generated by the proposed patio, and no impacts to the availability of public parking is expected.

Alternatives

1. The Planning Commission may suggest specific project modifications or operational changes that are necessary to alleviate concerns. Modifications may address the business operation plan. If the changes are substantial, the item should be continued to a future meeting to allow the changes to be incorporated.
2. If the Planning Commission believes that the facts to support the findings for approval are insufficient at this time, the Planning Commission may deny the application. Refer to the draft resolution for denial provided as Attachment No. PC 2.

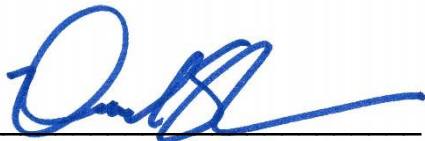
Environmental Review

The project is categorically exempt under Section 15301, of the State CEQA Guidelines – Class 1 (Existing Facilities). The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. Sessions Sandwiches is an existing restaurant. The proposed project involves the addition of a 130-square-foot outdoor dining area in conjunction with the existing restaurant.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners and occupants of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:



David S. Lee, Assistant Planner

Submitted by:



James Campbell, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Draft Resolution for Denial
- PC 3 Public Correspondence
- PC 4 Zoning Administrator Minutes of May 16, 2019
- PC 5 LSA Parking Study
- PC 6 Police Department Memorandum
- PC 7 Additional Police Correspondence
- PC 8 Project Plans

Attachment No. PC 1

Draft Resolution with Findings and Conditions

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RESOLUTION NO. PC2019-016

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-022 AND COASTAL DEVELOPMENT PERMIT CD2018-094 TO ADD AN OUTDOOR DINING AREA TO AN EXISTING FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT LOCATED AT 2823 NEWPORT BOULEVARD (PA2018-241)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sessions Sandwiches Newport Beach, LLC ("Applicant"), with respect to property located at 2823 Newport Boulevard, and legally described as Lots 18, 19, 20, and 21 of subdivision of Block 227, Section "A" of Newport Beach, as shown on a map recorded in Book 4 and Page 26 of Miscellaneous Maps, Records of Orange County ("Property") requesting approval of a minor use permit and coastal development permit.
2. The Applicant proposes to add a 130-square-foot outdoor dining area with alcohol service to an existing eating and drinking establishment ("Project"). The existing restaurant currently operates with a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) Alcoholic Beverage Control (ABC) license and has hours of operation between 6:00 a.m. and 9:00 p.m., daily. No other operational changes are requested or proposed.
3. The Property is located within the Commercial Visitor-Serving (CV) Zoning District and the General Plan Land Use Element category is Visitor Serving Commercial (CV).
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Visitor Serving Commercial (CV-A) (0.0 – 0.75 FAR).
5. A public hearing was held on May 16, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time place and purpose of the meeting was given in accordance with the Ralph M. Brown Act and the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.
6. At the conclusion of the hearing on May 16, 2019, the Zoning Administrator directed the application to the Planning Commission for consideration and review based on public concern regarding the expansion of alcohol service on the proposed patio.
7. A public hearing was held on June 6, 2019, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Ralph M. Brown Act and Newport Beach Municipal Code. 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 has been determined to be categorically exempt pursuant to Title 14, Division 6, Chapter 3 Section 15315 of the California Code of Regulations (Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. Sessions Sandwiches is an existing restaurant. The Project involves the addition of a 130-square-foot outdoor dining area in conjunction with the existing restaurant.

SECTION 3. REQUIRED FINDINGS.

Minor Use Permit

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the findings for a minor use permit are set forth:

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use Element designates the site as Visitor Serving Commercial (CV) which is intended to provide for accommodations, goods, and services to primarily serve visitors to the City of Newport Beach.
2. The existing restaurant includes alcohol sales and service to the restaurant and is consistent with the CV designation as it is intended to provide service not only to visitors, but also to residents within the immediate neighborhood and surrounding area. The proposed outdoor dining area will remain consistent with the General Plan designation, as it will provide additional outdoor seating for the restaurant.
3. Restaurants are common within the vicinity and are complementary to the surrounding commercial uses along the Newport Boulevard business corridor.
4. The subject property is not 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.*

Facts in Support of Finding:

1. The zoning designation for the Property is Commercial Visitor-Serving (CV) which is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City. Pursuant to Zoning Code Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements), food service, eating and drinking establishments with alcohol service and no late hours (after 11:00 p.m.) are permitted subject to the approval of a minor use permit.
2. The restaurant operates under an existing minor use permit (UP2014-050), which was approved on March 5, 2015, to add a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control (ABC) license and reduce the hours of operation to the existing restaurant. Prior to this use permit, operation of the restaurant with 523 square feet of net public area (N.P.A.) was authorized by a minor use permit (UP2013-012), which was approved on September 12, 2013. The addition of an outdoor dining area will not affect compliance with conditions established by the existing minor use permit. All applicable conditions of approval have been incorporated herein.
3. As established by the restaurant's original use permit (UP2013-012), the parking for the restaurant is considered legal nonconforming due to parking because 11 parking spaces are provided on-site, whereas, based on a parking ratio for the previous retail use of one space per 250 gross square feet ("sq. ft."), a total of 14 parking spaces ($3,307 \text{ sq. ft.} / 250 = 13.2 = 14$) were required. Pursuant to NBMC Chapter 20.38.060 (Nonconforming Parking), a nonconforming use in a nonresidential zoning district may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g. increase in floor area) occurs. The restaurant was approved with a parking rate of one space per 40 square feet of N.P.A. With this ratio, 14 spaces ($523 \text{ sq. ft. of N.P.A.} / 40 = 13.1 = 14$) would also be required on-site; therefore, the use was found not to intensify the parking requirement above what was required for the previous retail use.
4. The existing commercial center consists of the subject restaurant and a dry cleaning facility. The dry cleaning facility, which was authorized by a use permit (UP3431) on October 24, 1991, has a parking rate of one space per 250 square feet of gross floor area. With this ratio, 9.4 spaces are required. Combined with the required restaurant parking (13.1), 23 total spaces ($9.4 + 13.1 = 22.5 = 23$) would be required on-site. Since 11 spaces are currently provided, the Property has a parking deficit of 12 parking spaces and is considered legal nonconforming.

5. The proposed location of the 130-square-foot outdoor dining area is in an existing parking space in the southeastern corner of the parking lot. Pursuant to Sections 20.40.040 and 21.40.040 (Off-Street Parking Spaces Required) of the Municipal Code, parking required for restaurant uses may range from a rate of one space per 30 square feet to one space per 50 square feet of interior N.P.A. based on physical and operational characteristics of the Project. No additional parking is required for outdoor patio areas that are less than 25 percent on the interior N.P.A. Staff has re-examined the required parking for the restaurant and concluded that a parking rate of one space per 44 square feet of N.P.A. is appropriate in this case based on a parking study prepared by LSA dated March 22, 2019 and the following location and operational characteristics of the proposed use:
 - a) There is no live entertainment or dancing and no presence of pool tables and other attractions;
 - b) The proposed 130-square-foot outdoor patio is less than 25 percent of the interior N.P.A.;
 - c) Due to the restaurant's location on the Balboa Peninsula, which consists of a higher density residential and close proximity to the beach, a higher percentage of customers are expected to walk or bike to the restaurant. As observed by the parking study, more than 25 percent of observed customers arrived by a travel mode not requiring a parking space; and
 - d) The observed parking demand revealed that during peak hours, there were still vacant parking spaces in the parking lot to accommodate the restaurant and the dry cleaning customers.
6. With a required parking rate of one space per 44 square feet of N.P.A., the total parking required between the restaurant and dry cleaning facility is 22 spaces ($9.4 + 11.9 = 21.3 = 22$). Since 10 spaces are proposed, the parking lot would remain deficient by 12 parking spaces. The addition of the outdoor dining area would not intensify the nonconforming parking situation.
7. The parking study observed that some customers parked within the six on-street metered spaces located immediately adjacent to the building along each side of Newport Boulevard for convenience; however, when taking into account the peak parking demand based on all areas where customers were observed parking (including the metered spaces), a total demand of nine parking spaces is observed. This observed peak parking demand of nine spaces can be accommodated by the 10 parking spaces remaining after construction of the proposed outdoor dining area and no impacts related to parking are anticipated.
8. The use will remain a restaurant and, as conditioned, the Project will continue to comply with Zoning Code standards for eating and drinking establishments.

Finding:

- C. *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 surrounding area contains various, retail, business office and visitor serving commercial uses including restaurants that serve alcoholic beverages. The proposed addition of the outdoor dining area provides additional seating for restaurant patrons and would be consistent with the existing and permitted nonresidential uses within the area.
2. The restaurant will continue to adhere to the existing hours of operation between 6:00 a.m. and 9:00 p.m., daily, consistent with the hours of other similar establishments and uses in the commercial area.
3. The operational conditions of approval relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The Project has been conditioned to ensure that the business remains a restaurant and does not become a bar, club, or tavern.
4. The restaurant, including the proposed outdoor dining area, is required to comply with the City's noise ordinance and no outside paging system or outside amplified music is allowed.
5. The Police Department has reviewed the request, including the ability to serve alcohol on the patio, and has no objections to the Project as the use has not been a burden on police resources. The operational conditions of approval relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties during business hours, if directly related to the patrons of the establishment.

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.*

Facts in Support of Finding:

1. The restaurant is currently operating, and the tenant space was previously reviewed and permitted.
2. Prior to occupancy, the tenant space and Property were reviewed to ensure adequate public and emergency vehicle access, public services, and utilities were provided for on-

site. The tenant improvement plans were reviewed for compliance with applicable building and fire codes.

3. The proposed outdoor dining area has been reviewed by the Public Works department to ensure that the patio structure provides a sufficient site distance triangle and does not interfere with motorists traveling on Newport Boulevard.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, and safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The Project has been reviewed and includes conditions of approval that 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 in parking areas, sidewalks, and areas surrounding the Property during adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The Police Department believes that with the conditions of approval, the Project will not have a negative impact on the community and police services.
3. The Project has been reviewed by the City's Traffic Engineer for traffic safety visibility. The proposed outdoor dining area has been set back from the sidewalk adjacent to Newport Boulevard to avoid traffic visibility issues with oncoming motorists.
4. Compliance with the Municipal Code standards related to noise, lighting and other performance standards will help ensure that the proposed use will be compatible with the surrounding area.
5. The restaurant will serve the surrounding community. The additional outdoor dining area will provide patrons with additional seating options and is not uncommon in establishments of this type. Additionally, the outdoor dining area will provide an economic opportunity for the property owner to maintain a successful business that is compatible with the surrounding community.
6. The Applicant is required to comply with the requirements of the California Department of Alcoholic Beverage Control to ensure the safety and welfare of customers and employees within the establishment. All owners, managers, and employees selling or serving alcohol will be required to complete a certified training program in responsible methods and skills for selling alcoholic beverages.

Coastal Development Permit

The Minor Use Permit is consistent with the legislative intent of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and approves the Coastal Development Permit based on the following findings per Section 21.52.015.F of Title 21:

Finding:

- F. That the proposed map conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The Minor Use Permit is for the addition of an outdoor dining area for an existing restaurant and meets all of the requirements of the Local Coastal Program.
2. Pursuant to Section 21.20.020 (Commercial Coastal Zoning Districts Land Uses, Table 21.20-1) of the Implementation Plan, eating and drinking establishments located in the CV Coastal Zoning District that are classified as *Food Service, No Late Hours*, are allowed uses.
3. The on-site parking provided for the commercial building is legal, nonconforming. Staff has re-evaluated the required parking and determined that the loss of one parking space for the addition of the outdoor dining area does not intensify the nonconforming parking for the site.
4. The Minor Use Permit is for a property within a developed neighborhood that is approximately 600 feet from the harbor and is not near any natural landforms or environmentally sensitive areas.

Finding:

- G. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The Property is not between the nearest public road and the sea or shoreline of any body of water located within the coastal zone. The subject property is located a large distance from a public beach (+800 feet) or harbor (+600 feet) and is not located near a public viewpoint designated by the Coastal Land Use Plan. As stated in the parking study, the 10 on-site parking spaces is adequate to accommodate the total observed peak parking demand of nine spaces and no impacts to the availability of public parking is expected.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Minor Use Permit No. UP2018-022 and Coastal Development Permit No. CD2018-094, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. 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 in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.
3. This resolution supersedes Planning Commission Resolution No. 1971, which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 6th DAY OF JUNE, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Zak, Chairman

BY: _____
Lee Lowrey, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Applicable Conditions required by Minor Use Permit No. UP2014-050 (Planning Commission Resolution No. 1971) have been incorporated into the conditions herein)

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. This Minor Use Permit and Coastal Development 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 is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, may require an amendment to this Minor Use Permit and Coastal Development Permit or the processing of new use permits.
4. Minor Use Permit No. UP2018-022 and Coastal Development Permit No. CD2018-094 shall expire unless exercised within 24 months from the date of approval as specified in Section 20. 54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
5. 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 the leasing agent.
6. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit and Coastal Development Permit.
8. Live entertainment and dancing shall be prohibited at the premises.
9. The eating and drinking establishment is allowed a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) ABC license. The sale of alcohol for off-site consumption is prohibited.

10. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. Interior net public area shall be limited to 523 square feet. Exterior net public area shall be limited to 130 square feet.
12. The hours of operation for the food service use are limited to between 6:00 a.m. and 9:00 p.m., daily.
13. No outside paging system or amplified music shall be utilized in conjunction with this establishment.
14. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
Location	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

15. The Applicant shall receive necessary approval from the California Department of Alcoholic Beverage Control to serve alcohol in the outdoor dining area.
16. The Applicant shall take reasonable steps to ensure that noise created by music and or video in the interior of the establishment does not impact surrounding residential land uses.
17. 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.
18. All trash shall be stored within the building or within dumpsters stored in the trash enclosure, or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
19. A gate shall be installed to enclose the existing trash enclosure and shall be locked when not in use.
20. The walls of the existing trash enclosure shall be increased in height so no portion of the trash dumpster is visible from the public right-of-way.

21. The trash dumpster within the trash enclosure shall be covered with a solid lid.
22. The Applicant 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 (including Water Quality-related requirements).
23. The exterior of the business shall be maintained free of litter and graffiti at all times. 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.
24. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit and Coastal Development Permit.
25. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
26. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.
27. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Sessions Sandwiches Patio Expansion including, but not limited to, Minor Use Permit No. UP2018-022 and Coastal Development Permit No. CD2018-094 (PA2018-241). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

BUILDING AND FIRE DEPARTMENT

28. The Applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division.
29. The construction plans must meet all applicable State Disability Access requirements.
30. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
31. All exits shall remain free of obstructions and available for ingress and egress at all times.
32. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, 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 Holidays.

REVENUE DIVISION

33. A valid business license from the City of Newport Beach with a seller's permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.

PUBLIC WORKS DEPARTMENT

34. All improvements shall be constructed as required by Ordinance and the Public Works Department.
35. The Applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Newport Boulevard frontages.
36. An encroachment permit is required for all work activities within the public right-of-way.
37. All improvements shall comply with the City's sight distance requirement, pursuant to City Standard 110-L and Municipal Code Section 20.30.130.
38. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.
39. All on-site drainage shall comply with the latest City Water Quality requirements.

40. The existing water meter servicing the project site shall be protected with a reduced pressure backflow assembly and shall be sized to match the water meter.
41. Bicycle parking shall be provided on-site and be positioned to ensure that the bicycle rack and bicycles do not encroach into the public right-of-way.
42. No persons shall be permitted to stand at the outside of the outdoor dining area.
43. The proposed raised planter shall be located entirely on private property and shall be limited to a maximum height of 24-inches.
44. Planting within the raised planter shall be limited to a maximum of 24 inches above adjacent public sidewalk grade.

POLICE DEPARTMENT

45. The approval of Minor Use Permit No. UP2018-022 and Coastal Development Permit No. CD2019-094 does not permit Sessions Sandwiches to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a use permit.
46. Food service from the regular menu shall be available to patrons up to thirty (30) minutes before the scheduled closing time.
47. Alcoholic beverages shall only be served and consumed inside the subject establishment, except for the outdoor patio area.
48. No “happy hour”-type of reduced price alcoholic beverage promotion shall be allowed.
49. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
50. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
51. The quarterly gross sales of alcoholic beverages shall not exceed 30 percent of the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
52. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.

53. Strict adherence to maximum occupancy limits is required.
54. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every three years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's, manager'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.
55. The use of pitchers or other large volume serving devices shall be prohibited.
56. Alcoholic beverages shall be sold with food, and not sold separately.
57. The Applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage Control 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 Minor Use Permit and Coastal Development Permit.

Attachment No. PC 2

Draft Resolution for Denial

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RESOLUTION NO. PC2019-016

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING MINOR USE PERMIT NO. UP2018-022 AND COASTAL DEVELOPMENT PERMIT CD2018-094 TO ADD AN OUTDOOR DINING AREA TO AN EXISTING FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT LOCATED AT 2823 NEWPORT BOULEVARD (PA2018-241)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sessions Sandwiches Newport Beach, LLC ("Applicant"), with respect to property located at 2823 Newport Boulevard, and legally described as Lots 18, 19, 20, and 21 of subdivision of Block 227, Section "A" of Newport Beach, as shown on a map recorded in Book 4 and Page 26 of Miscellaneous Maps, Records of Orange County ("Property") requesting approval of a minor use permit and coastal development permit.
2. The Applicant proposes to add a 130-square-foot outdoor dining area with alcohol service to an existing eating and drinking establishment ("Project"). The existing restaurant currently operates with a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) Alcoholic Beverage Control (ABC) license and has hours of operation between 6:00 a.m. and 9:00 p.m., daily. No other operational changes are requested or proposed.
3. The Property is located within the Commercial Visitor-Serving (CV) Zoning District and the General Plan Land Use Element category is Visitor Serving Commercial (CV).
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Visitor Serving Commercial (CV-A) (0.0 – 0.75 FAR).
5. A public hearing was held on May 16, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time place and purpose of the meeting was given in accordance with the Ralph M. Brown Act and the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.
6. At the conclusion of the hearing on May 16, 2019, the Zoning Administrator directed the application to the Planning Commission for consideration and review based on public concern regarding the expansion of alcohol service on the proposed patio.
7. A public hearing was held on June 6, 2019, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Ralph M. Brown Act and Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

Minor Use Permit

The Planning Commission may approve a use permit only after making each of the five required findings set forth in Newport Beach Municipal Code (NBMC) Subsection 20.52.020 (F) (Findings and Decision) of the NBMC. In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The subject property is located within Police Reporting District 15, which is considered the most concentrated area for retail alcohol establishments in the City. The addition of alcohol service in the outdoor dining area does not serve the public convenience and necessity as other outlets are easily accessible to consumers.
2. The addition of an outdoor dining area with alcohol service may impact surrounding residential neighborhoods with increases in alcohol-related crime and calls for service.

Coastal Development Permit

The Planning Commission may approve a coastal development permit only after making the findings in NBMC Subsection 21.52.015(F) (Coastal Development Permits – Findings and Decision). In this case, the Planning Commission was unable to make the required findings based on its potential impact on coastal resources.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Minor Use Permit No. UP2019-022 and Coastal Development Permit No. CD2018-094 subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. 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 in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF MAY, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Zak, Chairman

BY: _____
Lee Lowrey, Secretary

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Attachment No. PC 3

Public Correspondence

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From: [Lee, David](#)
To: [Lee, Amanda](#); [Garciamay, Ruby](#)
Subject: FW: Sessions Sandwiches Patio Seating and Request to Serve Alcohol Outside
Date: Wednesday, May 15, 2019 2:34:49 PM
Attachments: [image001.png](#)

Begin forwarded message:

From: Brian <newportbeachresident@yahoo.com>
Date: May 15, 2019 at 8:49:22 AM PDT
To: <citycouncil@newportbeachca.gov>, <ddixon@newportbeachca.gov>
Subject: Sessions Sandwiches Patio Seating and Request to Serve Alcohol Outside

City Council

I am a homeowner in Newport Beach on the peninsula.

I am requesting that Sessions Sandwiches' request for approval of "Sessions Sandwiches Patio Expansion Coastal Development Permit No. CD2018-094 and Minor Use Permit No. UP2018-022 (PA2018-241)" be denied. The matter is currently on schedule to be heard by the Zoning Administrator on May 16, 2019. If the City Council is not a position to outright deny Sessions Sandwiches' request for approval, **I ask that the matter be heard by the Planning Commission.**

As a condition to approving Sessions Sandwiches' 2015 Permit No. UP2014-050 (for beer/wine sales), the Planning Commission refused to allow Sessions Sandwiches to serve alcohol outside. Specifically, Condition No. 44 states: "Alcoholic beverages shall only be served and consumed inside the subject establishment." Sessions Sandwiches is located in a section of Newport Beach that is currently oversaturated with alcohol establishments. As has been widely publicized, this oversaturation has had a negative impact on the quality of life for the residents (for example, this area has the highest crime rates in the city, public displays of drunkenness, increased noise, etc.). Condition No. 44 is an important control meant to protect local residents' quality of life and to mitigate the deleterious impacts of increased alcohol use in the neighborhood. Sessions Sandwiches has characterized their current request to serve alcohol outside as a simple parking variance, but in fact, it presents a significant change in use of the property that should be heard at the Planning Commission level.

Thank you

Brian Park

From: [Lee, David](#)
To: [Lee, Amanda](#); [Garciamay, Ruby](#)
Subject: FW: Sessions Deli - Patio Extension
Date: Wednesday, May 15, 2019 2:38:05 PM

From: Jake Janz [mailto:jakejanz1@gmail.com]
Sent: Wednesday, May 15, 2019 12:09 PM
To: Lee, David <dlee@newportbeachca.gov>
Cc: Jurjis, Seimone <sjurjis@newportbeachca.gov>
Subject: Sessions Deli - Patio Extension

Hi David,

My name is Jake Janz. I am Newport Beach resident, a founding board member of the [Ben Carlson Foundation](#), as well as a founding board member of the [Newport Beach Foundation](#). I love our community and this is why I am writing you today.

I would like to express my full support in regards to the patio extension application submitted by Sessions Deli, located on Newport Blvd. Over the last 5 years, Sessions and Matt Meddock, the owner and a great friend of mine, have not only grown an amazing restaurant but they have also built a terrific reputation of generously supporting numerous local organizations, non-profits and charity events. They are a growing business with a big heart for all customers and the neighborhood that they are surrounded by. That being said, it is my hope that our City will approve of Sessions Deli application as we should all be proud and supportive of those making such positive impact, especially when it's such an up-standing establishment in our own back yard.

Sincere thanks for your time and consideration.

Respectfully,

Jake Janz
Ben Carlson Foundation
www.bencarlsonfoundation.org
#BENDIDGO

From: [Lee, David](#)
To: [Lee, Amanda](#); [Garciamay, Ruby](#)
Subject: FW: Sessions Deli - I support the new small patio
Date: Wednesday, May 15, 2019 4:32:26 PM

From: Robert Schacht [mailto:robert@innovaexams.com]
Sent: Wednesday, May 15, 2019 4:29 PM
To: Lee, David <dlee@newportbeachca.gov>
Subject: Sessions Deli - I support the new small patio

Hello,

As a business owner a block away from Sessions and a Newport resident, I would like to vehemently express my support for the proposed new patio at Sessions West Coast Deli on the Newport Peninsula. It is a very small space and one parking spot is negligible, but more importantly it will be a great addition to Sessions and the neighborhood. There are so many great things about Newport, with our weather being near the top of the list, but the city has done a poor job in allowing an outdoor dining experience. There are so few restaurants that have outdoor dining, patios, etc that the more we can have the better, and I would even go so far as to say the lack of outdoor dining is a major negative for Newport residents and visitors. With so many other nearby cities cultivating outdoor dining experience, Newport is more then behind the times and can not even compare to many other cities in the US and Europe. When you drive onto the Newport Peninsula you are basically on a highway that is NOT Inviting, a nice restaurant with a patio will certainly enhance the Peninsula look and feel.

Please allow Sessions to enhance our neighborhood and community dining experience.

--

Robert Schacht
Innova Exams, Inc.
401 30th St.
Newport Beach, CA 92663
Main 800-735-1353
Cell 949-945-3916
Fax 855-706-0909
Email robert@innovaexams.com

From: Lee, David
Sent: Wednesday, May 15, 2019 5:21 PM
To: Lee, Amanda; Garciamay, Ruby
Subject: FW: Outdoor Patio Will Enhance Newport Beach

From: Cynthia Zhuang [<mailto:clzhuang888@gmail.com>]
Sent: Wednesday, May 15, 2019 5:13 PM
To: Lee, David <dlee@newportbeachca.gov>
Subject: Outdoor Patio Will Enhance Newport Beach

Hello,

I am just writing you this e-mail to inform you of my support of the patio in front of Sessions.

I personally think that adding a balcony and having an outdoor patio will enhance tourism and the restaurant environment in Newport Beach (specifically Balboa). In my opinion, losing one parking spot is not a big deal; I'd rather have a nice patio to eat than have a parking spot.

Thank you for your time.

Best,
Cynthia Z.

--

May you have a wonderful day.

From: Lee, David
Sent: Thursday, May 16, 2019 7:57 AM
To: Lee, Amanda; Garciamay, Ruby
Subject: FW: Sessions Patio

-----Original Message-----

From: Brian <newportbeachresident@yahoo.com>
Sent: Wednesday, May 15, 2019 11:57 PM
To: Lee, David <dlee@newportbeachca.gov>
Subject: Re: Sessions Patio

David

I sent the below email to the City Council.

I am forwarding it to you to put on the record for the Sessions Sandwiches zoning hearing tomorrow.

Per the below, I object to Sessions Sandwiches' request for approval to have patio seating and I would like to request that the matter be reviewed by the Planning Commission.

Please confirm receipt of this email.

Thank you

Brian Park

On May 15, 2019, at 5:36 AM, Dixon, Diane <ddixon@newportbeachca.gov> wrote:

Hi Brian

Rhis zoning request can go through the zoning hearing process unless residents write to have it heard at the planning commission level. This project is not requesting any change in condition only uses. It is classified as a parking waiver. Please write to the city Council via the city website and request that this matter be heard at planning commission level.

Diane

Diane B Dixon, Mayor
Councilmember
949.287.9211

> On May 9, 2019, at 7:33 PM, Brian <newportbeachresident@yahoo.com> wrote:
>
> Monday works. The zoning hearing is for May 16.

>
> On May 9, 2019, at 6:59 PM, Dixon, Diane <ddixon@newportbeachca.gov> wrote:
>
> I was not aware. Let me check on this. I'm out of town for Mother's Day. May I call you
Monday?
>
> Diane
>
>
> Diane B Dixon, Mayor
> Councilmember
> 949.287.9211
>
>
>
>> On May 9, 2019, at 5:49 PM, Brian <newportbeachresident@yahoo.com> wrote:
>>
>> Diane - do you have a few minutes sometime tomorrow to discuss Sessions' request for
patio seating?
>>
>> -Brian Park
>> 805-637-9266
>

From: Lee, David
Sent: Thursday, May 16, 2019 8:00 AM
To: Lee, Amanda; Garciamay, Ruby
Subject: FW: Support for Sessions Patio...

-----Original Message-----

From: T.J. Graber <tjgraber@yahoo.com>
Sent: Wednesday, May 15, 2019 4:51 PM
To: Lee, David <dlee@newportbeachca.gov>
Subject: Support for Sessions Patio...

Hi, just a quick note as I heard Sessions has an interest in a small patio eating area... as a Newport resident and patron of Sessions, a patio will be a great addition to the restaurant and to the area. There are so few restaurants that have outdoor dining or a patio in Newport, this would be a great addition. Please allow the addition of a patio for sessions.

Thank you,
T.J. Graber
446 El Modena Ave

Sent from my iPhone

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Attachment No. PC 4

Zoning Administrator Minutes of May 16, 2019

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**ITEM NO. 7 Sessions Sandwiches Patio Expansion Coastal Development Permit No. CD2018-094
and Minor Use Permit No. UP2018-022 (PA2018-241)
Site Location: 2823 Newport Boulevard Council District 1**

The Zoning Administrator asked staff to explain why the item is being heard by the Zoning Administrator, when the approval of the previous minor use permit was made by the Planning Commission. Staff stated that the Zoning Code specified that a change to an approved project may only be approved by the original review authority for the project, which in this case is the Zoning Administrator.

David Lee, Assistant Planner, provided a brief project description stating that the application is for a minor use permit and coastal development permit to add a 130-square-foot outdoor dining area to an existing restaurant. The proposed outdoor dining area is located within an existing parking space and will result in a loss of one parking space. Mr. Lee provided background for the restaurant including previous discretionary approvals. Mr. Lee described the existing parking demand and the re-evaluated parking rate for the restaurant. There is no intensification to the nonconforming parking lot. Mr. Lee described hours of operation and operating characteristics. The addition of an outdoor dining area also requires a coastal development permit. Mr. Lee stated that the restaurant is located a large distance from the beach or harbor and is not located near a public viewpoint designated by the Coastal Land Use Plan. Staff requested that the Zoning Administrator add a condition of approval specifying the type of alcohol license allowed (Type 41) and prohibiting the sale of alcohol for off-site consumption. Staff also requested that the Zoning Administrator delete a condition of approval which limited the service of alcohol to inside the establishment, since the Police Department has no objections to alcohol service in the outdoor dining area.

The Zoning Administrator clarified with staff that the parking ratio for the restaurant would change from one space per 40 square feet of net public area (N.P.A.) to one space per 44 square feet of N.P.A. The Zoning Administrator questioned staff regarding the provided parking study's winter time observation and how parking would be affected the remainder of the year. Staff believes that the statistics provided in the study are representative of the parking situation for the majority of the year.

Applicant Matt Meddock of Sessions Sandwiches stated that he had reviewed the draft resolution and agrees with all of the required conditions.

The Zoning Administrator asked the applicant about fixed seating within the restaurant. Max Schlezer of Sessions Sandwiches answered that half of the seats are fixed and the remaining half are movable tables and chairs. The Zoning Administrator asked the applicant why there is one less parking space than what the previous approval described in the parking lot. The applicant responded that the new black top faded, which resulted in the previously striped out space re-appearing.

The Zoning Administrator opened the public hearing.

One member of the public, Brian Park, spoke and stated that he objected to the project due to the oversaturation of alcohol in the neighborhood, as well as high crime rate. Mr. Park also expressed concern about the proposed alcohol service on the patio and believes that the previous approval of alcohol service by the Planning Commission intended to restrict service to inside of the establishment. Mr. Park requested that the application be heard by the Planning Commission. Mr. Park suggested that the project be approved without alcohol service on the patio or limited hours of alcohol service on the patio.

The Zoning Administrator asked Mr. Park about previous problems since the restaurant was permitted to sell alcohol. Mr. Park stated that he had made multiple phone calls to the police regarding fights, noise issues, and an illegal window installation.

The Zoning Administrator closed the public hearing.

The Zoning Administrator asked staff what the adjacent land uses are. Staff described the surrounding land uses and stated that there is a mixture of commercial, mixed use and residential properties.

The applicant provided the Zoning Administrator an e-mail from Police Chief Jon Lewis which clarified the Police Department's stance on the project.

Action: Referred to the Planning Commission

The Zoning Administrator opened the public hearing. Seeing that no one from the public wished to comment, the public hearing was closed.

Action: Approved

None.

VI. ADJOURNMENT

The agenda for the Zoning Administrator Hearing was posted on May 9, 2019, at 11:25 a.m. on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive and on the City's website on May 9, 2019, at 11:20 a.m.

Attachment No. PC 5

LSA Parking Study

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MEMORANDUM

DATE: March 22, 2019
TO: Matt Meddock
FROM: Ken Wilhelm
SUBJECT: Sessions West Coast Deli Parking Assessment

LSA is pleased to submit this assessment of parking availability for the Sessions West Coast Deli at 2823 Newport Boulevard in Newport Beach, California. In September 2013, the City of Newport Beach (City) approved the 3,307-square-foot (sf) restaurant with 523 sf of public seating area. Newport Beach Municipal Code (NBMC) Section 20.40.040 and Section 20.40.60 establish a parking rate for food service of 1 space per 30 sf to 1 space per 50 sf of net public area, including outdoor dining areas exceeding 25 percent of the interior net public area or 1,000 sf, whichever is less. At the time of approval, Sessions West Coast Deli did not have an outdoor dining area and the City determined that a parking rate of 1 space per 40 sf of public seating area was appropriate based in part on bicycle parking and walk-up traffic. Using this parking rate, the restaurant required 14 parking spaces ($523 \text{ sf} \div 1 \text{ space per } 40 \text{ sf} = 13.1 \text{ spaces}$).

The restaurant was considered legal nonconforming due to parking because 10 parking spaces are provided on site. Because the previous land use also required 14 parking spaces, no intensification or enlargement was proposed, and the change in land use was consistent with NBMC Section 20.38.060. At this time, Sessions West Coast Deli is proposing the addition of an outdoor dining area of 130 sf, which does not exceed 25 percent of the interior net public area or 1,000 sf. Per NBMC Section 20.40.040, an outdoor dining area of this size does not require additional parking. The outdoor dining area would occupy an area that was never striped for parking, but is sometimes used as a parking space. At the completion of the project, the site would still have 10 parking spaces. This parking analysis seeks to determine: (1) the parking rate based on empirical data on site, and (2) whether the parking demand could be accommodated with the parking supply.

Parking Supply

Figure 1 (attached) depicts the existing parking lot. The lot provides 10 striped parking spaces, of which 1 is designated a handicap-accessible space and 2 (nearest the cleaners) are signed as suggesting use only by customers of the cleaners. In addition to these off-street spaces, metered on-street parking spaces are located immediately adjacent to the building along Newport Boulevard. The 6 metered parking spaces are limited to 30 minutes of parking, which is sufficient for deli customers.

Customer Travel Mode

LSA contracted with an independent data collection company to observe customer arrivals and note whether the mode of travel was by automobile, bicycle, or walking. Observations were made on Thursday, March 8, 2018, and Saturday, March 10, 2018, between 7:00 a.m. and 9:00 p.m. Rain occurred on Saturday, March 10, 2018, so replacement Saturday parking data were collected on February 16, 2019. Table A displays a summary of the collected travel mode data. It should be noted that rain occurring on the first surveyed Saturday reduced the number of customers arriving by bicycle and walking. Overall, on the two typical days surveyed, 28 percent of observed customers arrived by a travel mode not requiring a parking space (26 percent on the weekday and 29 percent on the weekend).

Table A: Customer Travel Mode

	Thursday, March 8, 2018	Saturday, February 16, 2019	Total
Drove Car	61	77	138
<i>Percent</i>	<i>74%</i>	<i>71%</i>	<i>72%</i>
Bicycle or Skateboard	6	21	27
<i>Percent</i>	<i>7%</i>	<i>19%</i>	<i>14%</i>
Walk	14	11	25
<i>Percent</i>	<i>17%</i>	<i>10%</i>	<i>13%</i>
Rideshare (Uber or Lyft)	1	0	1
<i>Percent</i>	<i>2%</i>	<i>0%</i>	<i>1%</i>
Total Observed	82	109	191

Parking Demand and Parking Rate

At the same time that customer arrival modes were being collected, the independent data collection company was recording parking demand within the off-street parking lot and the adjacent on-street metered parking spaces. This parking accumulation data is attached and also summarized in Table B. On Thursday (March 8, 2018), a maximum of 6 of the 10 off-street parking spaces were occupied. This occurred at 12:30 p.m. and again at 3:00 p.m. Despite the available spaces in the parking lot, some customers chose to park in the on-street spaces. Within the metered parking spaces, a maximum of 2 of the 6 spaces were occupied at any time. Additionally, despite the available spaces in the parking lot and on the street, some customers were observed parking in an adjacent parking lot. (These customers appeared to be picking up take-out orders.) Table B accounts for all of these customers when calculating peak parking demand. On Thursday, the overall peak parking demand occurred around 12:00 p.m., when a total of 9 vehicles were parked.

On Saturday (February 16, 2019), a maximum of 7 of the 10 off-street parking spaces were occupied. This occurred at 3:30 p.m. Again, a maximum of 2 of the 6 metered spaces were occupied at any time, despite on-site parking spaces being available. On Saturday, the overall peak parking demand occurred around 3:30 p.m. and 6:30 p.m., when a total of 8 vehicles were parked for the deli in all parking areas.

On both the surveyed Thursday and the surveyed Saturday, it appeared from the parking data and observations that deli customers were parked in cleaners parking spaces after 6:30 p.m., but not during cleaners business hours. On the surveyed weekday, deli vehicles were observed in the adjacent parking lot during the lunch period. The vehicles parked in these spaces were included in the off-street parking totals in Table B.

Table B: Observed Parking Demand

Time	Thursday, March 8, 2018				Saturday, February 16, 2019			
	Off-Street (10 Spaces)	Metered (6 Spaces)	Adjacent Lot	Total	Off-Street (10 Spaces)	Metered (6 Spaces)	Adjacent Lot	Total
7:00 a.m.	1	1	0	2	2	0	0	2
7:30 a.m.	1	0	0	1	2	0	0	2
8:00 a.m.	2	0	0	2	5	0	0	5
8:30 a.m.	2	0	0	2	4	0	0	4
9:00 a.m.	4	1	0	5	4	0	0	4
9:30 a.m.	1	0	0	1	6	0	0	6
10:00 a.m.	1	0	0	1	4	0	0	4
10:30 a.m.	4	2	0	6	3	1	0	4
11:00 a.m.	5	2	0	7	4	0	0	4
11:30 a.m.	5	0	0	5	6	0	0	6
12:00 p.m.	5	2	2	9	5	0	0	5
12:30 p.m.	6	1	1	8	3	0	0	3
1:00 p.m.	4	1	0	5	3	0	0	3
1:30 p.m.	3	1	1	5	4	1	0	5
2:00 p.m.	4	0	1	5	4	1	0	5
2:30 p.m.	4	1	0	5	4	1	0	5
3:00 p.m.	6	1	0	7	4	0	0	4
3:30 p.m.	5	1	0	6	7	1	0	8
4:00 p.m.	2	0	0	2	5	2	0	7
4:30 p.m.	2	0	0	2	4	0	0	4
5:00 p.m.	2	1	0	3	3	0	0	3
5:30 p.m.	2	0	0	2	4	2	0	6
6:00 p.m.	3	2	0	5	4	1	0	5
6:30 p.m.	4	1	0	5	6	2	0	8
7:00 p.m.	3	2	0	5	5	1	1	7
7:30 p.m.	2	2	0	4	4	0	1	5
8:00 p.m.	2	1	0	3	4	0	0	4
8:30 p.m.	1	0	0	1	4	0	0	4
9:00 p.m.	0	0	0	0	4	0	0	4

The observed parking demand revealed that a maximum of 9 vehicles were parked for Sessions West Coast Deli at any time. The 10 parking spaces remaining after the proposed construction of an outdoor dining area would be able to accommodate this parking demand. The 6 adjacent metered spaces would also be available in the event of additional parking demand.

Based on the weekday and weekend parking demand observed for this study, the 523 sf of public area appears to generate parking demand at a rate of 1 space per 58 sf (523 sf ÷ 9 parking spaces =

58 sf per parking space). This observed parking data appear to support adjusting the parking rate from the previously anticipated 1 space per 40 sf of public area.

Conclusion

Sessions West Coast Deli was originally approved with 10 parking spaces and a parking rate of 1 space per 40 sf of public area. Empirical data collected during a weekday and a weekend showed that about 28 percent (the average of both days) of the restaurant customers arrive by a travel mode that does not require a parking space. The peak parking demand in all of the areas where customers could park was observed to be 9 parking spaces, which is a rate of 1 space per 58 sf of public area. The observed peak parking demand could be accommodated by the 10 parking spaces remaining after construction of the proposed outdoor dining area.

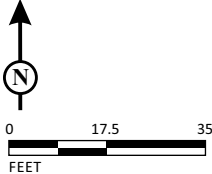
Attachments: Figure 1: Existing Parking
Parking Data



FIGURE 1

LSA

LEGEND
 On-Street Parking Area



SOURCE: Google Earth, 2018
 I:\SWC1801\G\Existing_Parking.cdr (3/26/2018)

Sessions West Coast Deli
 Existing Parking

Parking Study Study

Location: 18-1044

City: Newport Beach, CA

Day: Thursday

Date: 3/8/2018

Space Type	Parking Lot				SB Newport Blvd.	NB Newport Blvd.	Adjacent Lot	Total	Occupancy Percentage
	Reg	Parking VIP Cleaners only	HC	Striped Space	Metered	Metered			
Spaces	7	2	1	1	3	3	0	17	
7:00 AM	0	1	0	0	0	1	0	2	11.8%
7:30 AM	0	1	0	0	0	0	0	1	5.9%
8:00 AM	0	1	0	1	0	0	0	2	11.8%
8:30 AM	1	1	0	0	0	0	0	2	11.8%
9:00 AM	2	2	0	0	0	1	0	5	29.4%
9:30 AM	0	1	0	0	0	0	0	1	5.9%
10:00 AM	1	0	0	1	0	0	0	2	11.8%
10:30 AM	2	2	0	0	1	1	0	6	35.3%
11:00 AM	3	1	0	1	0	2	0	7	41.2%
11:30 AM	4	1	0	0	0	0	0	5	29.4%
12:00 PM	4	0	0	1	2	0	2	9	52.9%
12:30 PM	5	1	0	0	1	0	1	8	47.1%
1:00 PM	4	0	0	0	0	1	0	5	29.4%
1:30 PM	1	1	0	1	1	0	1	5	29.4%
2:00 PM	3	0	0	1	0	0	1	5	29.4%
2:30 PM	3	0	0	1	0	1	0	5	29.4%
3:00 PM	4	1	0	1	0	1	0	7	41.2%
3:30 PM	4	0	0	1	0	1	0	6	35.3%
4:00 PM	2	0	0	0	0	0	0	2	11.8%
4:30 PM	2	0	0	0	0	0	0	2	11.8%
5:00 PM	2	0	0	0	0	1	0	3	17.6%
5:30 PM	2	0	0	0	0	0	0	2	11.8%
6:00 PM	3	0	0	0	0	2	0	5	29.4%
6:30 PM	4	0	0	0	0	1	0	5	29.4%
7:00 PM	3	0	0	0	0	2	0	5	29.4%
7:30 PM	1	1	0	0	0	2	0	4	23.5%
8:00 PM	2	0	0	0	0	1	0	3	17.6%
8:30 PM	1	0	0	0	0	0	0	1	5.9%
9:00 PM	0	0	0	0	0	0	0	0	0.0%

Notes:

Parking Study

Location: 2823 Newport Beach Blvd

City: Newport Beach, CA

Date: 02/16/2019

Day: Saturday

Restriction	Off Street				On Street		Adjacent Lot	Total	Occupancy Percentage
	Reg	HC	Parking VIP Cleaners only	Stripped space	SB Newport Blvd	NB Newport BLvd			
Spaces	7	1	2	1	3	3	0	17	
7:00 AM	2	0	0	0	1	0	0	3	18%
7:30 AM	2	0	0	0	0	0	0	2	12%
8:00 AM	4	0	1	0	0	0	0	5	29%
8:30 AM	4	0	0	0	0	0	0	4	24%
9:00 AM	4	0	0	0	0	0	0	4	24%
9:30 AM	6	0	0	0	0	0	0	6	35%
10:00 AM	4	0	0	0	0	0	0	4	24%
10:30 AM	3	0	0	0	0	0	0	3	18%
11:00 AM	3	0	1	0	0	0	0	4	24%
11:30 AM	4	0	1	1	0	0	0	6	35%
12:00 PM	3	0	1	1	0	1	0	6	35%
12:30 PM	2	0	0	1	0	1	0	4	24%
1:00 PM	2	0	0	1	0	0	0	3	18%
1:30 PM	2	1	0	1	1	0	0	5	29%
2:00 PM	4	0	0	0	0	0	0	4	24%
2:30 PM	4	0	0	0	0	1	0	5	29%
3:00 PM	4	0	0	0	0	0	0	4	24%
3:30 PM	7	0	0	0	1	0	0	8	47%
4:00 PM	5	0	0	0	1	1	0	7	41%
4:30 PM	4	0	0	0	0	3	0	7	41%
5:00 PM	3	0	0	0	0	2	0	5	29%
5:30 PM	4	0	0	0	0	2	0	6	35%
6:00 PM	4	0	0	0	1	2	0	7	41%
6:30 PM	5	0	1	0	0	2	0	8	47%
7:00 PM	4	0	1	0	0	3	1	9	53%
7:30 PM	4	0	0	0	0	1	1	6	35%
8:00 PM	4	0	0	0	0	3	0	7	41%
8:30 PM	4	0	0	0	0	3	0	7	41%
9:00 PM	4	0	0	0	0	3	0	7	41%

Observation Study

Location: 18-1044

City: Newport Beach, CA

Day: Thursday

Date: 3/8/2018

OBSERVATIONS (FOR SESSIONS DELI CUSTOMERS ONLY)							
TIME (Arrived) (HH:MM)	TRAVEL MODE: ARRIVED DRIVING AND PARKED IN ZONE...				IF DID NOT ARRIVE DRIVING		
	Parking Lot	SB Newport Blvd	NB Newport Blvd	Burr White Realty Lot	WALKED	BIKED	OTHER
7:10 AM	X						
7:12 AM					X		
7:13 AM	X						
7:21 AM	X						
7:22 AM	X						
7:47 AM					X		
7:57 AM					X		
8:00 AM	X						
8:08 AM					X		
8:18 AM					X		
8:25 AM						X	
8:49 AM					X		
8:51 AM					X		
8:56 AM					X		
8:57 AM	X						
8:59 AM	X						
9:03 AM					X		
9:04 AM						X	
9:08 AM	X						
9:12 AM	X						
9:40 AM	X						
9:45 AM	X						
10:07 AM	X						
10:12 AM						X	
10:18 AM			X				
10:31 AM	X						
10:38 AM	X						
10:42 AM	X						
10:53 AM	X						
10:55 AM	X						
11:00 AM	X						
11:01 AM	X						
11:08 AM	X						
11:20 AM	X						
11:23 AM			X				
11:44 AM	X						
11:47 AM		X					
11:48 AM		X					
12:01 PM				X			
12:02 PM							Uber
12:10 PM		X					
12:14 PM	X						
12:17 PM				X			
12:19 PM	X						
12:23 PM	X						
12:24 PM	X						
12:26 PM	X						
12:31 PM	X						
12:41 PM				X			
12:43 PM	X						
12:49 PM	X						
12:52 PM	X						
12:58 PM	X						
1:04 PM	X						
1:11 PM						X	
1:12 PM	X						
1:31 PM				X			
1:32 PM					X		
1:33 PM	X						
1:36 PM	X						
1:43 PM				X			
1:44 PM	X						
1:49 PM	X						
2:01 PM	X						
2:01 PM				X			
2:03 PM					X		
2:29 PM	X						
2:48 PM	X						
2:50 PM	X						
3:03 PM					X		
3:29 PM	X						
3:44 PM	X						
4:44 PM					X		
4:47 PM	X						
5:23 PM	X						
5:36 PM					X		
5:50 PM	X						
6:13 PM	X						
6:15 PM	X						
6:31 PM	X						
7:09 PM						X	
7:42 PM						X	

OTHER OBSERVATIONS		
TIME (Arrived) (HH:MM)	PARKED IN LOT and went to...	
	CLEANERS	OTHER (offsite)
7:13 AM	X	
7:22 AM	X	
8:08 AM	X	
8:10 AM	X	
8:15 AM	X	
8:19 AM	X	
8:28 AM	X	
8:57 AM	X	
8:58 AM	X	
9:23 AM	X	
9:24 AM	X	
9:39 AM	X	
10:24 AM	X	
10:27 AM	X	
10:46 AM	X	
11:02 AM	X	
11:21 AM	X	
11:26 AM	X	
11:45 AM	X	
12:11 PM	X	
12:23 PM	X	
12:52 PM		X
1:16 PM	X	
1:22 PM	X	
1:41 PM	X	
1:43 PM	X	
3:00 PM	X	
3:02 PM	X	
3:16 PM	X	
4:02 PM	X	
4:08 PM	X	
4:15 PM	X	
4:21 PM	X	
4:49 PM	X	
5:01 PM	X	
5:02 PM	X	
6:01 PM	X	

Observation Study

Location: 2823 Newport Beach Blvd
City: Newport Beach, CA

Date: 02/16/2019
Day: Saturday

Time Arrived	Sessions West Coast Deli Observations						
	Parking Lot	Mode of travel			If did not drive...		
		Arrived driving and parked in zone...					
		SB Newport Blvd	NB Newport Blvd	Burr White Realty Lot	Walked	Biked	Other
8:32 AM					x		
8:38 AM						x	
8:38 AM						x	
8:38 AM						x	
8:38 AM						x	
8:38 AM						x	
8:38 AM						x	
9:23 AM	x						
9:40 AM	x						
9:46 AM					x		
9:50 AM	x						
9:51 AM					x		
9:57 AM					x		
10:13 AM	x						
10:16 AM	x						
10:21 AM					x		
10:25 AM						x	
10:25 AM						x	
10:30 AM	x						
10:36 AM	x						
10:38 AM			x				
10:39 AM	x						
10:57 AM	x						
11:24 AM	x						
11:24 AM	x						
11:29 AM	x						
11:45 AM					x		
11:46 AM	x						
11:46 AM	x						
11:48 AM	x						
11:52 AM	x						
12:06 PM	x						
12:07 PM	x						
12:10 PM					x		
12:15 PM	x						
12:23 PM	x						
12:31 PM	x						
12:32 PM	x						
12:34 PM	x						
12:34 PM							Skateboard
12:48 PM					x		
1:01 PM	x						
1:05 PM						x	
1:25 PM	x						
1:27 PM						x	
1:27 PM						x	
1:30 PM	x						
1:31 PM			x				
1:35 PM	x						
1:40 PM	x						
1:46 PM	x						
2:02 PM	x						
2:04 PM					x		
2:14 PM			x				
2:18 PM	x						
2:25 PM	x						
2:26 PM	x						
2:28 PM	x						
2:37 PM	x						
2:41 PM	x						
2:46 PM	x						
3:06 PM	x						
3:08 PM					x		
3:08 PM	x						
3:10 PM			x				
3:17 PM	x						
3:17 PM	x						
3:20 PM	x						
3:23 PM	x						
3:29 PM		x					
3:35 PM		x					
4:03 PM	x						
4:14 PM	x						
4:29 PM					x		
4:33 PM	x						
4:54 PM	x						
4:58 PM	x						
5:06 PM	x						
5:20 PM	x						
5:26 PM	x						
5:27 PM		x					
5:32 PM	x						
5:38 PM					x		
5:38 PM					x		
5:38 PM					x		
5:38 PM					x		
5:38 PM					x		
5:42 PM			x				
5:45 PM	x						
5:46 PM					x		
6:06 PM			x				
6:11 PM	x						
6:20 PM	x						
6:21 PM	x						
6:27 PM	x						
6:28 PM			x				
6:35 PM					x		
6:37 PM	x						
6:51 PM			x				
6:57 PM	x						
6:59 PM	x						
7:01 PM	x						
7:13 PM				x			
7:19 PM	x						
7:29 PM					x		
7:33 PM					x		
7:34 PM	x						
7:58 PM	x						
8:21 PM	x						

Other Observations	Other Observations	
	Parked in Lot 001 and went to...	
	Cleaners	Other (Offsite)
7:53 AM	x	
7:55 AM	x	
8:01 AM	x	
8:27 AM	x	
8:32 AM	x	
8:34 AM	x	
8:42 AM	x	
8:55 AM	x	
9:08 AM	x	
9:21 AM	x	
10:20 AM	x	
10:56 AM	x	
11:10 AM	x	
11:11 AM	x	
11:28 AM	x	
11:47 AM	x	
12:00 PM	x	
12:05 PM	x	
12:41 PM	x	
12:45 PM	x	
12:53 PM	x	
1:15 PM	x	
1:17 PM	x	
1:22 PM	x	
1:26 PM	x	
1:35 PM	x	
1:37 PM	x	
2:07 PM	x	
3:03 PM	x	
3:10 PM	x	
4:17 PM	x	
4:19 PM	x	
4:38 PM	x	
6:27 PM		x
6:48 PM		x

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Attachment No. PC 6

Police Department Memorandum

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**NEWPORT BEACH POLICE DEPARTMENT
DETECTIVE DIVISION**

MEMORANDUM

TO: David Lee, Assistant Planner

FROM: Wendy Joe, Police Civilian Investigator

DATE: April 1, 2019

SUBJECT: Sessions Sandwiches Patio Expansion
2823 Newport Blvd.
PA2018-241

At your request, the Police Department has reviewed the project application for Sessions Sandwiches located at 2823 Newport Blvd., Newport Beach. Per the project description, the applicant is seeking a Minor Use Permit to add outdoor dining to their establishment.

Statistical Data and Public Convenience or Necessity

Attached is a summary report compiled by Newport Beach Police Department (NBPD) Crime Analyst, Kristi Kondo, which provides detailed statistical information related to alcohol establishments and calls for service in and around the applicant's current place of business at 2823 Newport Blvd.

Crime Statistics:

The Police Department divides the City into areas referred to as Reporting Districts. This allows the Police Department to create statistical data, as well as better communicate officer locations while policing. The proposed applicant location is within Reporting District (RD) 15 which stretches from 20th Street to 37th Street along the Newport Beach Peninsula.

Per Business and Professions Code §23958.4, the Police Department is required to report offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft (all Part 1 crimes), combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to ABC. These figures make up the "Crime Count" which is indicated on the attached statistical data form.

This reporting district is reported to ABC as a high crime area as compared to other reporting districts in the City. The RD's Crime Count is 706, which ranks 1st in the City at 408% over the City-wide crime count average of 134. Since this area has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City, the area is found to have undue concentration. In comparison, neighboring RD 13 is 94% above the City-wide average, RD 16 is 53% higher, and RD 25 is 52% higher.

The highest volume crime is assault and the highest volume arrest is drunkenness.

This location meets the legal criteria for undue concentration as it relates to crime. (B&P §23958.4).

Alcohol License Statistics:

The applicant premise is located within census tract 0635.00. This census tract has an approximate population of 5,726 residents with 90 active alcohol licenses. That is a per capita ratio of 1 alcohol license for every 64 residents. Per the Business and Professions code, we compare this per capita ratio to Orange County's per capita ratio of 1 license for every 467 residents. Since the area's ratio exceeds the ratio of on-sale retail licenses to population in the county, the area is deemed to have an undue concentration of alcohol licenses.

This location meets the legal criteria for undue concentration as it relates to over saturation of alcohol licenses (B&P §23958.4).

Dispatch Events:

There were 4 dispatch events for Sessions Sandwiches in 2018. None of these events were related to the business operation.

Discussion and Recommendations

The above crime and alcohol license statistics are provided for reference when considering an expansion to the applicant's licensed drinking area. The Police Department has no objections to this project as the business is not a burden on police resources.

RECOMMENDED CONDITIONS OF APPROVAL

The Police Department requests the following changes to the permit conditions.

Delete current condition 51 regarding alcohol training and replace with the below updated language:

All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager'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.

Add the following condition:

The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage 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 use permit.

Delete current condition 44:

Alcoholic beverages shall only be served and consumed inside the subject establishment.

If you have any questions as to the content of this memorandum, please contact Investigator Wendy Joe at (949)644-3705 or wjoe@nbpd.org.



Wendy Joe

Police Civilian Investigator, Special Investigations Unit



Randy Parker

Detective Sergeant, Special Investigations Unit



NEWPORT BEACH POLICE DEPARTMENT

2018 CRIME AND ALCOHOL-RELATED STATISTICS

CHIEF JON T. LEWIS

SUMMARY FOR SESSIONS SANDWICHES AT 2823 NEWPORT BLVD. (RD15)

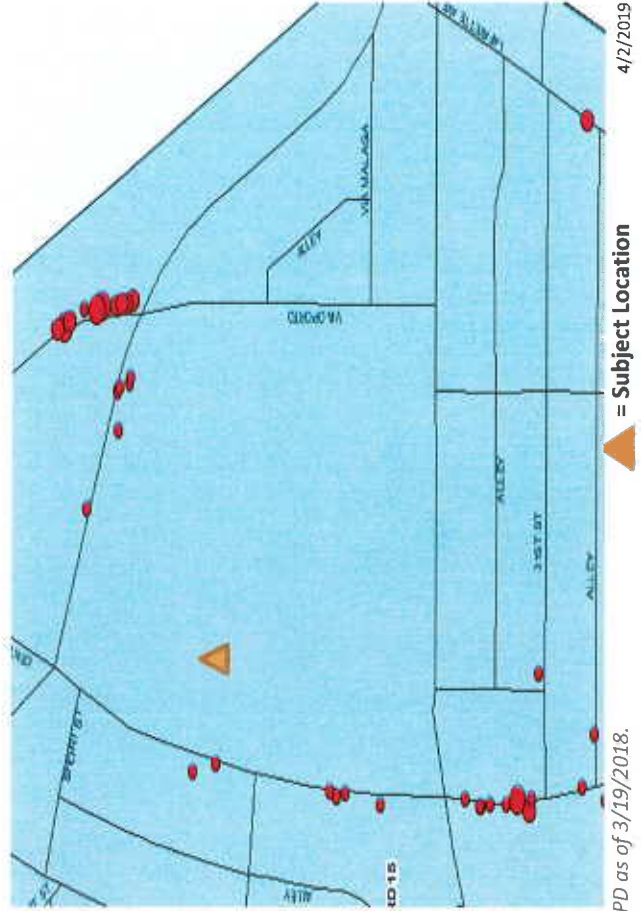
Subject:	Part I Crime	Diff From Avg	% Diff From Avg	Part I Arrests	Diff From Avg	% Diff From Avg	Part II Crime	Diff From Avg	% Diff From Avg	Part II Arrests	Diff From Avg	% Diff From Avg	Crime Count	Diff From Avg	% Diff From Avg
2823 Newport Blvd.	1	N/A	N/A	0	N/A	N/A	14	N/A	N/A	1	N/A	N/A	2	N/A	N/A
Subject RD: RD15	159	+101	+176%	34	+29	+536%	550	+459	+505%	547	+466	+573%	706	+567	+408%
Adjacent RD: RD13	60	+2	+4%	6	+1	+12%	177	+86	+95%	210	+129	+158%	270	+131	+94%
Adjacent RD: RD16	49	-9	-15%	5	-0	-6%	140	+49	+54%	163	+82	+101%	212	+73	+53%
Adjacent RD: RD25	84	+26	+46%	6	+1	+12%	149	+58	+64%	127	+46	+56%	211	+72	+52%
Newport Beach	2,192	RD Average = 59		203	RD Average = 6		3,456	RD Average = 89		3,088	RD Average = 74		5,280	RD Average = 134	

Part I Crimes are the 8 most serious crimes as defined by the FBI Uniform Crime Report - Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny, Auto Theft, and Arson. This report reflects City of Newport Beach data for 2017.

Per BP 23958.4, crime count is the sum of Part I Crime plus Part II Arrests.

Subject:	Population	Active Licenses	License Per Capita	Licensed Establishments
2823 Newport Blvd.	N/A	0	N/A	0
Subject Census Tract: 635	5,726	90	64	74
Adjacent Census Tract: 628	4,220	39	108	34
Adjacent Census Tract: 636.03	6,221	9	691	9
Adjacent Census Tract: 634	4,795	38	126	30
Newport Beach	85,186	451	189	389
Orange County	3,010,232	6,452	467	5,561

Number of Active ABC Licenses is the total of all types of retail licenses known to the NBPB as of 3/19/2018.
All Population figures taken from the 2010 US Census.



4/2/2019

Subject Location

Attachment No. PC 7

Additional Police Correspondence

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Subject: FW: Sessions Sandwiches Patio Seating and Request to Serve Alcohol Outside
Date: Thursday, May 16, 2019 at 2:47:29 PM Pacific Daylight Time
From: Lewis, Jon
To: O'Neill, William
CC: Leung, Grace
Category: Newport Beach
Attachments: image001.png, image002.png, image003.png, image004.png

Mayor Pro Tem O'Neill,

Research of our records shows Sessions has not had any alcohol related calls for service in the last 24 months related to their business.

The following is a summary of calls for service to 2823 Newport Blvd:

03/08/2017 – Disturbance involving a male transient with a pocket knife.

06/09/2017 – Pedestrian Stop. A passerby flagged an officer down regarding a male asking for money in front of LaVentina's. The male was arrested for Public Intoxication. He said had been drinking alcohol while walking through the grocery store and was trying to get home.

11/12/2018 – Suspicious Person. LaVentina's called to report an agitated male talking to himself in front of their shop.

12/08/2018 – Report of a man passed out. The notes in the call log indicate this subject took off running while the caller was on the phone. Officers were unable to locate the person.

03/30/2019 – Report of a Physical Fight involving two people walking towards 30th Street.

Additionally, in March of 2017 the Department sent a minor decoy into Sessions to purchase alcohol. That minor was properly asked for identification and was not served.

Mr. Park spoke with our folks last week. Mr. Park related he and his neighbors have made several calls to the Department regarding loud noise coming from the sandwich shop, however there is no record of noise complaints in our dispatch call logs. As noted in the past, over saturation is a significant concern in this area, however there is no evidence that Sessions Sandwiches contributes to the burden on police resources. None of the above calls for service indicated a nexus to Sessions, rather Sessions was used as a geographical landmark in explaining a location.

Please let me know if you have additional questions or would like more information.

Respectfully,

Jon T. Lewis | Chief of Police

Newport Beach Police Department
870 Santa Barbara Drive, Newport Beach CA 92660

From: "O'Neill, William" <woneill@newportbeachca.gov>
Date: May 15, 2019 at 09:18:30 PDT
To: "Lewis, Jon" <JLewis@nbpd.org>
Cc: "Leung, Grace" <gleung@newportbeachca.gov>
Subject: FW: Sessions Sandwiches Patio Seating and Request to Serve Alcohol Outside

Have we had any alcohol-related incidents at this location in the last 24 months?

Will O'Neill
Mayor Pro Tem
City of Newport Beach

From: Brian <newportbeachresident@yahoo.com>
Date: Wednesday, May 15, 2019 at 8:48 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>, Diane Dixon <ddixon@newportbeachca.gov>
Subject: Sessions Sandwiches Patio Seating and Request to Serve Alcohol Outside

City Council

I am a homeowner in Newport Beach on the peninsula.

I am requesting that Sessions Sandwiches' request for approval of "Sessions Sandwiches Patio Expansion Coastal Development Permit No. CD2018-094 and Minor Use Permit No. UP2018-022 (PA2018-241)" be denied. The matter is currently on schedule to be heard by the Zoning Administrator on May 16, 2019. If the City Council is not a position to outright deny Sessions Sandwiches' request for approval, **I ask that the matter be heard by the Planning Commission.**

As a condition to approving Sessions Sandwiches' 2015 Permit No. UP2014-050 (for

alcohol outside. Specifically, Condition No. 44 states: "Alcoholic beverages shall only be served and consumed inside the subject establishment." Sessions Sandwiches is located in a section of Newport Beach that is currently oversaturated with alcohol establishments. As has been widely publicized, this oversaturation has had a negative impact on the quality of life for the residents (for example, this area has the highest crime rates in the city, public displays of drunkenness, increased noise, etc.). Condition No. 44 is an important control meant to protect local residents' quality of life and to mitigate the deleterious impacts of increased alcohol use in the neighborhood. Sessions Sandwiches has characterized their current request to serve alcohol outside as a simple parking variance, but in fact, it presents a significant change in use of the property that should be heard at the Planning Commission level.

Thank you

Brian Park

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Attachment No. PC 8

Project Plans

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SESSIONS SANDWICHES

2823 NEWPORT BOULEVARD, NEWPORT BEACH, CA, 92663

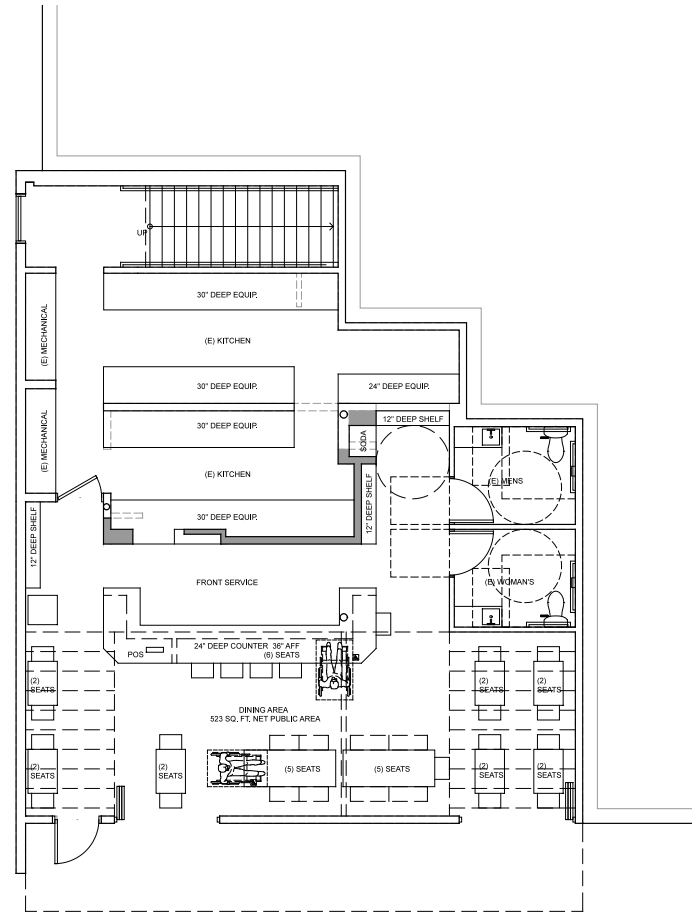
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FLOOR AREA CALCULATIONS

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LEVEL 1 FLOOR PLAN



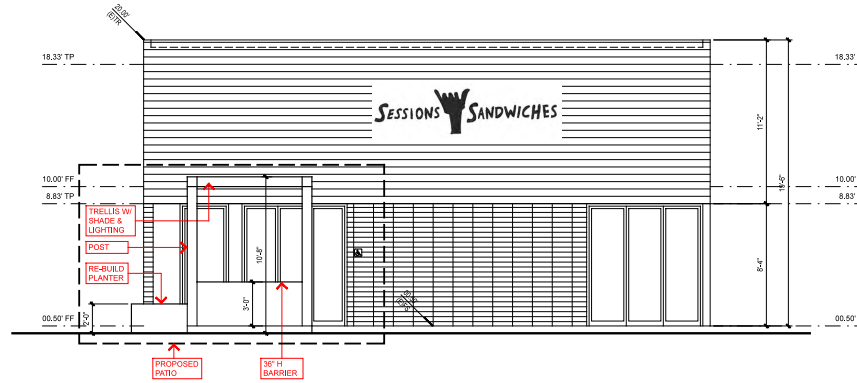
SESSIONS WEST COAST DELI
2823 NEWPORT BLVD., NEWPORT BEACH, CA 92663



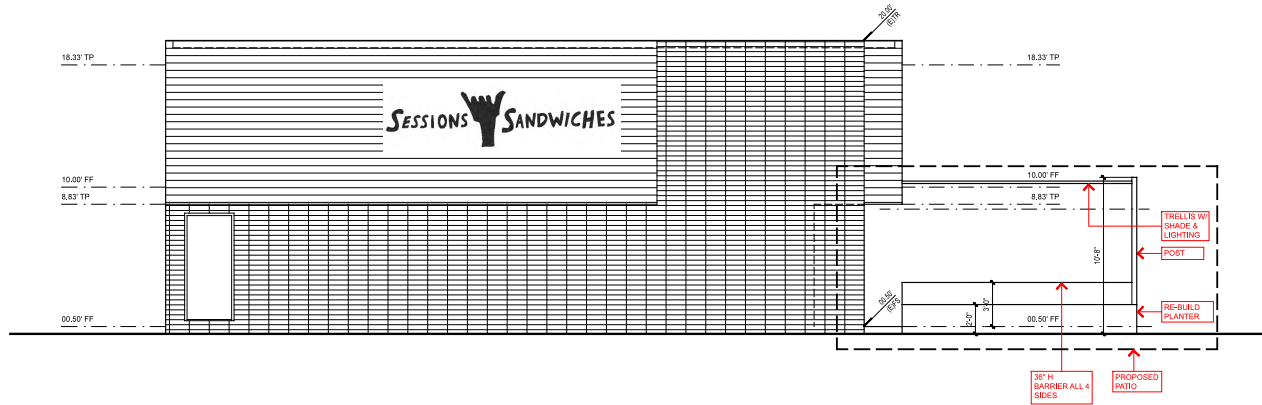
SCALE: $\frac{1}{4}" = 1'-0"$
PLOT DATE: 11/30/2018
SHEET NUMBER

A21

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NORTH ELEVATION



EAST ELEVATION



SESSIONS WEST COAST DELI
2823 NEWPORT BLVD., NEWPORT BEACH, CA 92663



SCALE: $\frac{1}{4}" = 1'-0"$
PLOT DATE: 1/29/2019
SHEET NUMBER

A31