



## **CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT**

March 19, 2020  
Agenda Item No. 3

**SUBJECT:** il Farro Caffè Trattoria Use Permit Amendment (PA2019-162)  
▪ Conditional Use Permit No. UP2019-050

**SITE LOCATION:** 111 21st Place

**APPLICANT:** il Farro Caffè & Restaurant, Inc. dba il Farro Restaurant

**OWNER:** Farrotto, LLC (Domenico Maurici)

**PLANNER:** Benjamin M. Zdeba, AICP, Senior Planner  
949-644-3253 or bzdeba@newportbeachca.gov

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### **PROJECT SUMMARY**

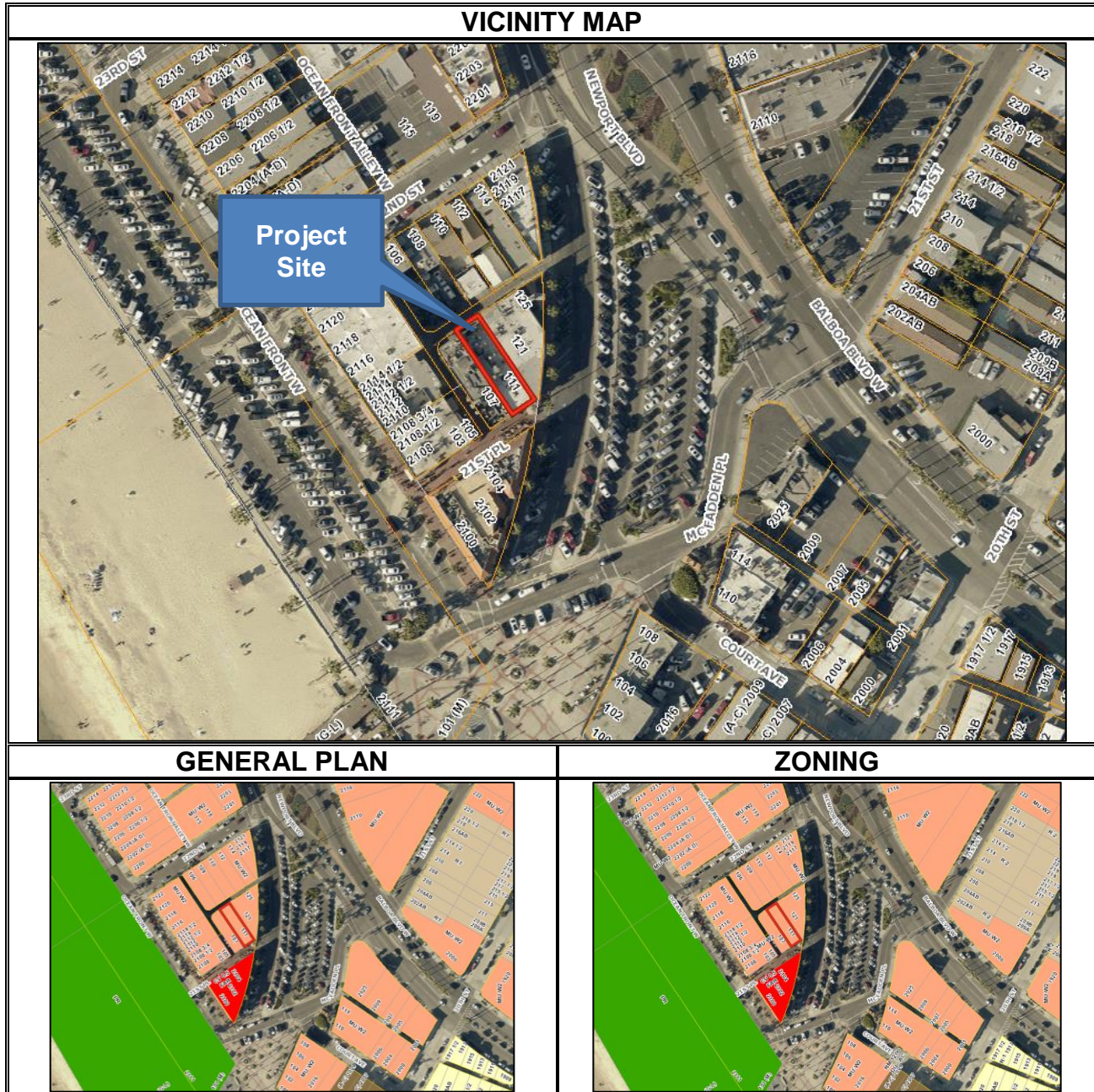
The applicant requests to amend an existing Use Permit in order to change operational restrictions for an existing restaurant. The applicant specifically requests the following: (1) to change the permitted hours of operation to 6 a.m. to 1:30 a.m., daily, with alcohol service not beginning until 11 a.m.; (2) to allow a happy hour prior to 9 p.m.; (3) to allow the sale of alcohol for off-site consumption on a limited basis with a Type 21 Alcoholic Beverage Control (ABC) License; and (4) to allow limited live entertainment.

If approved, this Conditional Use Permit would supersede Use Permit No. UP3690 and Outdoor Dining Permit No. OD0032. In addition, if approved, the operator is required to obtain an operator license from the Police Department pursuant to Newport Beach Municipal Code (NBMC) Chapter 5.25.

### **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, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2020-009 approving Conditional Use Permit No. UP2019-050 (Attachment No. PC 1).

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LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Mixed Use Water Related (MU-W2)	Mixed-Use Water Related (MU-W2)	il Farro Caffè Trattoria
NORTH	MU-W2	MU-W2	Multi-tenant commercial and mixed-use structures
SOUTH	Visitor Serving Commercial (CV)	Commercial Visitor Serving (CV)	Restaurants and hotel
EAST	MU-W2	MU-W2	The Stag Bar
WEST	MU-W2	MU-W2	Multi-tenant commercial

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## **INTRODUCTION**

### **Project Setting and Description**

The subject property is located within the heart of the McFadden Square area of the Balboa Peninsula adjacent to the Newport Pier. Surrounding land uses include the Stag Bar and Stag Hotel to the northeast; Rockin' Baja Lobster, 21 Oceanfront Restaurant and Doryman's Inn to the south; The Blue Beet and Dory Deli to the west; and several smaller commercial tenants and mixed-use structures to the north. The 260-parking-space West Ocean Front Parking Lot is located west of the project site. Also located nearby is the McFadden Square Parking Lot, which contains approximately 137 parking spaces. The property consists of one legal lot totaling approximately 2,375 square feet in area and is developed with a 2,250-square-foot building constructed in 1930. The building is single story and is solely occupied by il Farro Caffè Trattoria. The development is considered legal nonconforming since it exceeds the allowable floor area ratio (0.5) and there is no parking provided on site.

### ***Entitlement and Permitting Background***

The site was historically operated as a restaurant for over 60 years, prior to becoming il Farro Caffè Trattoria. Up until 2001, it had operated without a use permit and had no limitations on its use, including number of seats or limitation on hours of operation.

On March 13, 1998, the Planning Division approved Outdoor Dining Permit No. OD0032 to allow the establishment of an accessory outdoor dining area in conjunction with the restaurant.

Subsequently, on February 8, 2001, the Planning Commission approved Use Permit No. UP3690 to change the Alcoholic Beverage Control (ABC) license to a Type 47 (On-Sale General, Eating Place). This Use Permit set the parameters within which the current restaurant operates. Despite some more recent electrical, mechanical and plumbing permits, the restaurant has remained mostly unchanged.

### ***Requested Changes***

In order to remain competitive, the applicant desires to alter the current operation of the restaurant through the subject application. Each of the requested changes are shown briefly in Table 1 on the subsequent page with the most notable changes being the hours of operation, the introduction of live entertainment, and a limited Type 21 (Off-Sale General) ABC license consisting of incidental sales of alcohol for off-site consumption through internet sales and in-person transactions within the restaurant space. The request is further outlined in the applicant's project description (Attachment No. PC 3).

**Table 1 – Existing and Proposed Operations**

	Existing	Proposed
<i>Interior Seats, Net Public Area (NPA)</i>	64 seats, 920 sq. ft.	No change
<i>Outdoor Seats, NPA</i>	No seat limit, 179 sq. ft.	No change
<i>On-Site Parking Provided</i>	None	No change
<i>Hours of Operation</i>	11 a.m. to 12:30 a.m., daily (September to April) and 11 a.m. to 1:30 a.m., daily (May to August)	6 a.m. to 1:30 a.m., daily (year-round)
<i>Happy Hour</i>	Not permitted	Allowed prior to 9 p.m.
<i>Live Entertainment</i>	Not permitted	Allowed
<i>Dancing</i>	Not permitted	No change
<i>ABC License(s)</i>	Type 47	Type 47 and Type 21

## **DISCUSSION**

### **Consistency with General Plan/Coastal Land Use Plan/Zoning**

The site is designated MU-W2 (Mixed-Use Water Related) by the General Plan Land Use Element, the Coastal Land Use Plan, and the Zoning Code, which allows for eating and drinking establishments. Under the General Plan Land Use designation of MU-W2, the Floor Area Ratio (FAR) for the subject property is limited to a 0.5 FAR given its composition of only commercial uses. The existing FAR for the subject property is nonconforming at approximately 0.95. Inasmuch as the proposed application will not result in an increase in the gross floor area, the project is consistent with the Land Use Element.

Land Use Policy LU 6.8.2 (Component Districts) of the General Plan notes “McFadden Square should be emphasized as [one of the] primary activity centers of the northern portion of the Peninsula.”

Land Use Policy LU 6.12.1 (Priority Uses) of the General Plan and Land Use Policy 2.1.5-7 of the Coastal Land Use Plan state that one of the goals for the McFadden Square area is to “accommodate visitor- and local-serving uses that take advantage of McFadden Square’s waterfront setting including specialty retail, restaurants, and small scale overnight accommodations.” The proposed project is consistent with this policy because it supports visitors and residents and improves the offerings of an existing restaurant operation.

In reviewing the proposed project, the Zoning Code standards for late hour operations and alcoholic beverage sales were considered and the City’s Police Department and Code Enforcement Division reviewed the proposed project.

### *Police Department Review*

The Newport Beach Police Department (NBPD) has provided a memorandum expressing support for most of applicant's requests (Attachment No. PC 4). However, the NBPD does not support amplified live entertainment and they support live entertainment ceasing at 11 p.m., daily. The proposed project is located in a Police Reporting District (RD 15) that is the most concentrated for retail alcohol establishments in the City and has a crime rate of 357 percent above the citywide RD average.

Should the Planning Commission approve all, or any portion of, the applicant's request, then the Police Department has recommended several conditions of approval to regulate and control potential nuisances that the establishment may create. The Police Department has also indicated that they would issue an Operator License should the Planning Commission approve the application request.

### Late Hours

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

- 1. Noise from music, dancing, and voices associated with allowed indoor or outdoor uses and activities;*
- 2. High levels of lighting and illumination;*
- 3. Increased pedestrian and vehicular traffic activity during late and early morning hours;*
- 4. Increased trash and recycling collection activities;*
- 5. Occupancy loads of the use; and*
- 6. Any other factors that may affect adjacent or nearby uses.*

The applicant is proposing live entertainment to allow flexibility for its operation, including a DJ or live bands. The applicant is not requesting to allow dancing. In order to ensure the operation remains a restaurant, both the Police Department and Planning Division staff recommend limiting the live entertainment to acoustic acts only with no amplification allowed and further requiring that any live entertainment conclude by 11 p.m. This will help to avoid and minimize potential impacts to surrounding land uses. Furthermore, a condition of approval is included requiring exterior doors and windows be closed at all times beginning at 11 p.m., daily, except for ingress and egress purposes. Significant noise impacts from the outdoor dining area are not anticipated given its location on the eastern side of the building, its distance of approximately 300 feet from the nearest

residential zoning district, and the shielding provided by existing commercial buildings in the area.

No new lighting is proposed at this time. Should the applicant choose to install any exterior lighting, a condition is included to require a photometric study prior to issuance of building permits.

The existing establishment currently has the ability to operate from 11 a.m. to 12:30 a.m., daily (September to April) and from 11 a.m. to 1:30 a.m., daily (May to August). The proposed project will modify the hours to 6 a.m. to 1:30 a.m., daily (year-round). Given the current operation can extend to 1:30 a.m. for a portion of the busy summer season, minimal increased pedestrian and vehicular activity is expected during late and early morning hours. Staff does not anticipate any issues with the restaurant opening earlier for breakfast, especially given the applicant proposes to not begin alcohol service until 11 a.m., daily. Furthermore, at least 10 nearby eating and drinking establishments are open during the earlier morning hours, such that the requested operational change will not be out of character with the area.

A trash area is currently at the rear of the establishment. As conditioned, the operator will be required to maintain the trash area such that odors are controlled appropriately. Should the existing trash area be determined by the City in the future to be inadequate, the applicant will be required to increase the frequency of pickups.

Should the Planning Commission approve all or any part of the project, the applicant will be required to obtain an Operator License from the Police Department. The Operator License will provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

#### Alcoholic Beverage Sales

When reviewing an application to allow an eating or drinking establishment to sell, serve, or give away alcohol, NBMC Section 20.48.090 (Eating and Drinking Establishments) requires the Planning Commission to evaluate the potential impacts upon adjacent uses (within 100 feet as measured between the nearest lot lines) and to consider the proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption. The adjacent uses are mixed-use, residential, general commercial, and retail. The draft resolution includes conditions of approval designed to minimize negative impacts that the establishment may have to surrounding uses and ensure that the use remains compatible with the surrounding community.

The existing ABC license is a Type 47 (On-Sale General, Eating Place). This license will remain unchanged as part of the project. The applicant is requesting to add a Type 21 (Off-Sale General) license to allow restaurant patrons to purchase bottles of wine for off-

site consumption with their meals. As conditioned, in-person off-sale alcohol sales will only be permitted in conjunction with food purchases. It is also understood the applicant would like to conduct internet wine sales. Staff is not concerned with the request with the understanding it will remain accessory to the primary use of the space as a restaurant.

In order to approve a use permit for alcohol sales, the Planning Commission must also find that the use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales). In doing so, the following must be considered:

- a) *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
- b) *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
- c) *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
- d) *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
- e) *Whether or not the proposed amendment will resolve any current objectionable conditions.*

The establishment is located within Police Reporting District 15, which includes most of the commercial establishments for the Balboa Peninsula south of Coast Highway and 20<sup>th</sup> Street. A map of Police Reporting Districts is provided (Attachment No. PC 5). A memorandum, which includes alcohol-related statistics from 2019, is provided in Attachment No. PC 4. The Police Department supports the operation as proposed by the applicant with exception of the addition of amplified live entertainment. A discussion of the factors is provided below:

- a) *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*

Reporting District	Part One Crimes (Serious offenses)	Part Two Crimes (All other offenses)	Part One Crimes Rate (per 100,000 people)
RD No. 15	136	550	2,375.13
RD No. 12	58	80	1,374.41
RD No. 13	38	177	610.83
RD No. 16	57	139	1,118.74
Newport Beach	1,877	3,454	2,203.41



The Part One Crimes Rate in Reporting District 15 (RD 15) is higher than the Part One Crimes Rate for the City and all adjacent districts. The crime rate in this reporting district is 357 percent above the citywide reporting district average. The higher crime rate within this reporting district is largely due to the number of visitors to the Balboa Peninsula, the high concentration of restaurants, visitor-serving uses, and the high ratio of nonresidential to residential uses in RD 15. While the proposed project is located in an area that has a high concentration of alcohol licenses, staff feels it is acceptable to allow the proposed expansion of the privileges of the current establishment. The expanded privileges would provide enhanced opportunities for customers and could improve the viability of the business. The Police Department does not object to this project as conditioned and the business would be required to obtain an Operator License.

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

Reporting District	Alcohol-Related Crimes as Percentage of Total Crimes
RD No. 15	32%
RD No. 12	28%
RD No. 13	26%
RD No. 16	29%

RD 15 had a higher percentage of alcohol-related crimes in 2019, compared to all adjacent reporting districts; however, this is to be expected given that this figure includes driving under the influence (DUI), public intoxication, and liquor law violations, and the area is highly concentrated with commercial establishments. From January 1, 2019, through December 31, 2019, the Police Department reported no Part One Crime incidents and one Part Two Crime<sup>1</sup> incident. None of the calls received were a result of over-service of alcohol or neglect in responsibility by the applicant.

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

The project site is located in a mixed-use zoning district, which allows for residential uses when intermixed with nonresidential uses. Although not a residential use, there is a boutique hotel (Doryman's Inn) immediately across 21<sup>st</sup> Place, above Rockin' Baja Lobster and 21 Oceanfront restaurants. The nearest residential district is located approximately 350 feet east of the project site, halfway down Court Avenue. The nearest residential units are located 10 feet across the rear alley to the northeast of the subject property in a mixed-use building. The existing restaurant is separated from nearby residences due to the orientation of the tenant space, which faces the adjoining

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<sup>1</sup> Part One Crimes are the eight most serious crimes as defined by the FBI Uniform Crime Report – Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Auto Theft, and Arson. Part Two Crimes include all other crimes.

commercial buildings across the 21<sup>st</sup> Place right-of-way and the public parking lot. The nearest recreational facilities, the beach and the Newport Pier, are located approximately 260 feet to the southwest of the subject property. The nearest church, Our Lady of Mount Carmel Church, is located approximately 0.5 miles to the east of the subject property along West Balboa Boulevard. The nearest school, Newport Elementary School, is located 0.7 miles to the east of the subject property along West Balboa Boulevard. The nearest day care center, Children's Center by the Sea, is approximately 0.6 miles to the east along West Balboa Boulevard. The proposed use is surrounded by other commercial, retail, and office uses on the ground level.

With due consideration of all surrounding uses, staff, including the Police Department, do not believe the applicant's request will generate additional nuisances to the area with the use being subject to the conditions of approval provided in the draft resolution.

- d) *The proximity of the other establishments selling alcoholic beverages for either off-site or on-site consumption.*

The location of the establishment is in close proximity to several establishments with alcohol licenses on the Balboa Peninsula including the Stag Bar, Rockin' Baja Lobster, 21 Oceanfront Restaurant, The Blue Beet, and Baja Sharkeez, among others. All of these establishments have late-night and early-morning hours, and most are also open for breakfast. The RD 15 statistics indicate an over-concentration of alcohol licenses within this statistical area.

Census Tract	Active ABC Licenses	Active ABC Licenses Per Capita
Subject Census Tract (635)	91	1 per 63 residents
Adjacent Census Tract (628)	40	1 per 106 residents
Adjacent Census Tract (636.03)	9	1 per 691 residents
Adjacent Census Tract (634)	47	1 per 102 residents
Newport Beach	461	1 per 185 residents

The per capita ratio of one license for every 63 residents is higher than all adjacent census tracts and the average citywide ratio. This is due to the higher concentration of commercial land uses, many of them visitor-serving, and lower number of residential properties in the RD 15 area. While the proposed establishment is located in close proximity to other establishments selling alcoholic beverages, staff believes the physical and operational characteristics of the proposed establishment would make the continuation of alcoholic beverage sales appropriate at this location. Again, staff and the Police Department, believe the expanded privileges requested, subject to the proposed conditions of approval, should not prove detrimental to the area considering the number and proximity of nearby establishments that serve alcohol.

- e) *Whether or not the proposed amendment will resolve any current objectionable conditions.*

Expanding the privileges of the existing establishment will allow the restaurant to diversify its offerings as a convenience to its patrons. There are no current objectionable conditions to resolve through approval of this Conditional Use Permit.

#### Parking Requirement

The existing restaurant was developed without any on-site parking and it is considered legal nonconforming in this aspect.

Pursuant to Section 20.40.060 (Parking Requirements for Food Service Uses) of the Zoning Code, the eating and drinking establishment use classification requires one parking space for each 30 to 50 square feet of net public area depending on specific design characteristics, operational characteristics, and the location of the establishment.

As there is no change to the interior or outdoor net public areas, there is no increase to the parking requirement. The earlier opening hour could increase parking demand in the morning. The availability of parking in the McFadden Square and Oceanfront parking lots should easily accommodate employees and patrons as parking demand before lunch is typically low.

#### Conditional Use Permit Findings

In accordance with NBMC Section 20.48.030 (Alcohol Sales), the Planning Commission must make the following finding for approval of a new alcoholic beverage license:

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

The draft resolution includes conditions of approval and a requirement to obtain an Operator License administered by the Police Department to help prevent alcohol-related problems and minimize the potential effects of noise on neighboring residents to preserve the health and safety of residents and other businesses in the neighborhood.

In accordance with NBMC Section 20.52.020 (Conditional Use Permits and Minor Use Permits), the Planning Commission must also make the following findings for approval of a conditional 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 the 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.*
5. *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, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

The proposed use is consistent with the General Plan, Local Coastal Program Coastal Land Use Plan, and Zoning Code as indicated above.

The draft resolution includes conditions of approval designed to limit and/or avoid objectionable conditions due to noise, trash, deliveries, and alcohol service. The hours of operation are comparable to and compatible with uses in the McFadden Square area, in staff's opinion. Although the applicant proposes live entertainment, the applicant does not propose dancing, thereby reducing the probability for the establishment to evolve into a bar. Furthermore, staff recommends limiting any live entertainment to acoustic acts only, which will reduce potential noise impacts.

The establishment's location, in the heart of a commercial area within the Balboa Peninsula, is appropriate for an operation with extended hours of operation with alcohol sales and service. Alcohol sales and service will be provided as a convenience to the public and the expanded food service to include breakfast provides an additional choice for residents and visitors.

Staff believes sufficient facts exist in support of each finding. The operation of an eating and drinking establishment is consistent with the purpose and intent of the Mixed-Use Water Related (MU-W2) land use designation of the General Plan. The MU-W2 designation applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. Eating and drinking establishments can be expected to be found in this area and are complementary to the surrounding commercial uses. Additionally, the earlier opening hour will allow the establishment to serve breakfast and coffee, diversifying the existing eating and drinking establishment use.

The project has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the extent possible to maintain a healthy environment for both residents and businesses. To help ensure that the expansion of the establishment does not create a detrimental impact during late hours, the operator will be required to secure an Operator License and to take reasonable steps to discourage and

correct objectionable conditions that constitute a nuisance to areas surrounding the establishment. Should the operator be unable to abide by the conditions of approval or prevent objectionable conditions from occurring, the Police Department will have the authority to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

Staff, including the Police Department, supports the closing time of 1:30 a.m. for the eating and drinking establishment and related outdoor dining area. The location of the outdoor dining area will help limit exterior noise impacts given the orientation of the building facing the Newport Pier beach area and the West Ocean Front Parking Lot. Possible noise impacts for the interior of the eating and drinking establishment will be diminished because dancing is not proposed. The opening and closing hours for the establishment are compatible with other eating and drinking establishments in the area.

### Summary and Alternatives

Staff believes the findings for approval can be made, especially when the live entertainment offerings are limited to only acoustic sets with no amplification and are further required to cease by 11 p.m., as conditioned. Staff, including the Police Department, supports the balance of the applicant's request, which includes changing the operational hours to 6 a.m. to 1:30 a.m., daily (year-round), allowing an earlier happy hour promotion (before 9 p.m.), and allowing a limited retail sales component for off-sale alcohol that will remain accessory to the restaurant with no retail display allowed. The facts in support of the required findings and all recommended conditions of approval are presented in the draft resolution (Attachment No. PC 1).

The following alternatives are available to the Planning Commission should they feel the facts are not in evidence of support for the project application:

1. The Planning Commission may suggest specific operational changes that are necessary to alleviate any concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission should deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

### Environmental Review

Staff recommends that the Planning Commission find that the project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). Class 1 exempts projects involving negligible or

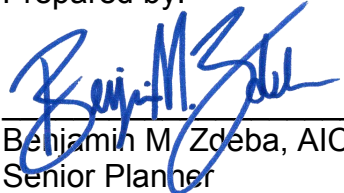


no expansion of a use including but not limited to interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The proposed project is limited to operational changes of an existing restaurant space.

### Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners 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:



Benjamin M. Zdeba, AICP  
Senior Planner

Submitted by:



James Campbell  
Deputy Community Development Director

### ATTACHMENTS

- PC 1 Draft Resolution for Approval
- PC 2 Draft Resolution for Denial
- PC 3 Applicant's Project Description and Justification
- PC 4 Police Department Memorandum
- PC 5 Reporting District Map
- PC 6 Project Plans

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# **Attachment No. PC 1**

Draft Resolution for Approval

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## RESOLUTION NO. PC2020-009

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP2019-050 TO ALLOW A CHANGE IN THE HOURS OF OPERATION, HAPPY HOUR, THE SALE OF ALCOHOL FOR OFF-SITE CONSUMPTION, AND LIVE ENTERTAINMENT FOR AN EXISTING RESTAURANT LOCATED AT 111 21<sup>ST</sup> PLACE (PA2019-162)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by il Farro Caffè & Restaurant, Inc. dba il Farro Restaurant ("Applicant"), with respect to property located at 111 21<sup>st</sup> Place, and legally described as Lot 17 and a Portion of the Abandoned Street in Block 21 of Tract No. 512 ("Property"), requesting approval of a conditional use permit.
2. The Applicant requests to amend the currently effective Use Permit No. UP3690 and Outdoor Permit No. OD0032 in order to change operational restrictions for an existing restaurant. The Applicant specifically requests the following: (1) to change the allowed hours of operation to 6 a.m. to 1:30 a.m., daily, with alcohol service not beginning until 11 a.m.; (2) to allow a happy hour prior to 9 p.m.; (3) to allow the sale of alcohol for off-site consumption on a limited basis with a Type 21 Alcoholic Beverage Control ("ABC") License; and (4) to allow limited live entertainment ("Project").

The Property is designated by the City of Newport Beach General Plan Land Use Element and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("NBMC") as Mixed Use Water Related (MU-W2).

3. The Property is located within the coastal zone. The City of Newport Beach Local Coastal Program Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and it is within the Mixed-Use Water Related (MU-W2) Coastal Zoning District under Title 21 (Local Coastal Program Implementation Plan) of the NBMC. The present use of the Property is a restaurant. There is no physical expansion proposed as part of the Project nor is there any change proposed that is anticipated to significantly change the intensity of the existing use; therefore, a coastal development permit is not required.
4. A public hearing was held on March 19, 2020, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.



## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The Project is limited to operational changes and aesthetic upgrades to the interior of the existing restaurant space.

## SECTION 3. REQUIRED FINDINGS.

### ***Conditional Use Permit Findings***

In accordance with Section 20.52.020(F) (Use Permit, Required Findings) of the NBMC, the following findings and facts in support of such findings 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 designation for the Property is MU-W2. The MU-W2 designation applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. The eating and drinking establishment is consistent with this land use designation. Eating and drinking establishment uses can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.
2. Inasmuch as the proposed application will not result in an increase in the floor area ratio, the project is consistent with the Land Use Element development limitations.
3. The Project is consistent with General Plan Land Use Policy LU6.8.2 (Component Districts), which emphasizes that McFadden Square should be utilized as one of the primary activity centers within the City. Changing the operational characteristics of the existing eating and drinking establishment to allow an earlier opening hour for coffee and breakfast service and to allow limited alcohol sales for off-site consumption help to diversify the use and provide an additional visitor- and local-serving convenience.
4. Eating and drinking establishments are common in the vicinity along the Balboa Peninsula and are frequented by visitors and residents. The establishment is compatible with the land uses permitted within the surrounding neighborhood.

5. The 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 the Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The Property is located in the MU-W2 Zoning District. The MU-W2 applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. Food service uses are permitted subject to the approval of either a minor or a conditional use permit.
2. A restaurant has been operating at the Property since 1991. The proposed changes will diversify the use by allowing the opportunity for the Applicant to serve coffee and breakfast and to allow patrons to purchase wine for off-site consumption with their meals.
3. The Property does not provide on-site parking, but the proposed changes are not anticipated to change the parking demand significantly. The McFadden Square area is adequately served by the two adjacent municipal lots throughout most of the year and the close proximity to multiple commercial uses and coastal resources will result in shared trips to the project site and surrounding area.

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 operation of the eating and drinking establishment will be restricted to the hours between 6 a.m. to 1:30 a.m., daily, with alcohol sales and service not commencing until 11 a.m., daily. The hours are compatible with other late night eating and drinking establishments in the area.
2. A restaurant has been operating in this location since 1991. The design of the restaurant space, its operation, and the location have all proven to be compatible with the vibrant McFadden Square entertainment area.
3. The Project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. Although the eating and drinking establishment is located approximately 10 feet from residential units across the alley to the north, the building is oriented toward the adjacent multi-tenant commercial structure and the parking lot, away from the nearby mixed-use structures. The existing outdoor

dining area is bounded by a wrought iron guardrail. Activity from the establishment will be buffered from the residential uses across 22<sup>nd</sup> Street. The Applicant is also required to control trash and litter around the Property.

4. The restrictions on the proposed live entertainment to only allow acoustic sets and to cease any live entertainment by 11 p.m. are intended to help ensure there are no noise impacts to any surrounding sensitive land uses.
5. The operational conditions of approval recommended by the Newport Beach Police Department relative to the sale of alcoholic beverages, including an Operator License, will help ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community.
6. The Property is located in a relatively dense area with multiple uses within a short distance of each other. The McFadden Square area is conducive to a significant amount of walk-in patrons. The area experiences parking shortages in the day time during the summer months, but parking is typically available during the rest of the year. Two (2) municipal parking lots and on-street parking are available in the area to accommodate the proposed use in the off-season months.
7. The Project is not expected to noticeably change the parking demand in the McFadden Square area.

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 Project is located within an existing commercial building. The existing tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
2. Adequate public and emergency vehicle access, public services, and utilities are provided to the Property. The proposed operational changes to the restaurant would not impact public services or utilities.
3. The Public Works Department and Life Safety Services (Fire) Division have reviewed the application and have no concerns regarding the operation.
4. Any tenant improvements to the Project will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

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, 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 to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The establishment will provide an expanded offering of coffee and breakfast items, as well as the sale of alcoholic beverages as a public convenience to the surrounding neighborhood and visitors to the area. This will help continue to revitalize the project site and provide an economic opportunity for the property owner to update the retail tenant and service, which best serve the quality of life for the surrounding visitor- and local-serving community.
3. The Project is located in a district that is subject to a captive market, which results in shared trips, different peak periods for a variety of land uses, and a high level of pedestrian and bicycle activity. These characteristics reduce the demand of the expanded eating and drinking establishment and the number of parking spaces required to serve the proposed use. Adequate parking is provided in the nearby municipal lots in the off-season months and summer weekdays to accommodate the proposed use.
4. The existing outdoor dining area is facing southeastward towards the adjacent multi-tenant commercial building and the public parking lot.

***Alcohol Sales Finding***

In accordance with Section 20.48.030 (Alcohol Sales) of the NBMC, the Planning Commission must make the following finding for approval of a new alcoholic beverage license:

Finding:

- F. The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

Facts in Support of Finding:

In finding that the proposed use is consistent with NBMC Section 20.48.030 of the Zoning Code, the following criteria must be considered:

- 
- i. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The Property is located in Reporting District (RD) 15, which includes most of the commercial establishments for the Balboa Peninsula south of Coast Highway and 20<sup>th</sup> Street. The Police Department is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to the Department of Alcoholic Beverage Control. Part One Crimes are the eight (8) most serious crimes defined by the FBI Uniform Crime Report: criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. RD 15 is considered a higher crime area, as compared to other reporting districts in the City. The RD 15 crime count is 614, which is 357 percent over the Citywide crime count average of 140. The higher crime rate within this reporting district is largely due to the number of visitors to the Balboa Peninsula, the high concentration of restaurants, visitor-serving uses, and the high ratio of nonresidential to residential uses in RD 15. In comparison, RD 13 is 23 percent over the Citywide average, RD 12 is 9 percent over the Citywide average, and RD 16 is 91 percent over the Citywide average.
  2. While the proposed project is located in an area that has a high concentration of alcohol licenses, staff feels it is acceptable to allow the proposed expansion of the privileges of the current establishment. The expanded privileges would provide enhanced opportunities for customers and could improve the viability of the business. The Police Department does not object to this project as conditioned and the business would be required to obtain an Operator License.
- ii. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. RD 15 had a higher percentage of alcohol-related crimes in 2019, compared to all adjacent reporting districts; however, this is to be expected given that this figure includes driving under the influence (DUI), public intoxication, and liquor law violations, and the area is highly concentrated with commercial establishments. From January 1, 2019, through December 31, 2019, the Police Department reported no Part One Crime incidents and one Part Two Crime incident. None of the calls received were a result of over-service of alcohol or neglect in responsibility by the applicant.
- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. The Project site is located in a mixed-use zoning district, which allows for residential uses when intermixed with nonresidential uses. Although not a residential use, there is a boutique hotel (Doryman's Inn) immediately across 21<sup>st</sup> Place, above Rockin' Baja Lobster and 21 Oceanfront restaurants. The nearest residential district is located approximately 350 feet east of the project site, halfway down Court Avenue. The nearest residential units are located 10 feet across the rear alley to the northeast of the subject



property in a mixed-use building. The existing restaurant is separated from nearby residences due to the orientation of the tenant space, which faces the adjoining commercial buildings across the 21<sup>st</sup> Place right-of-way and the public parking lot. The nearest recreational facilities, the beach and the Newport Pier, are located approximately 260 feet to the southwest of the subject property. The nearest church, Our Lady of Mount Carmel Church, is located approximately 0.5 miles to the east of the subject property along West Balboa Boulevard. The nearest school, Newport Elementary School, is located 0.7 miles to the east of the subject property along West Balboa Boulevard. The nearest day care center, Children's Center by the Sea, is approximately 0.6 miles to the east along West Balboa Boulevard. The proposed use is surrounded by other commercial, retail, and office uses on the ground level.

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

1. The location of the establishment is in close proximity to several establishments with alcohol licenses on the Balboa Peninsula including the Stag Bar, Rockin' Baja Lobster, 21 Oceanfront Restaurant, The Blue Beet, and Baja Sharkeez, among others. All of these establishments have late-night and early-morning hours, and most are also open for breakfast. The RD 15 statistics indicate an over-concentration of alcohol licenses within this statistical area.
2. The per capita ratio of one license for every 63 residents is higher than all adjacent census tracts and the average citywide ratio. This is due to the higher concentration of commercial land uses, many of them visitor-serving, and lower number of residential properties in the RD 15 area. While the proposed establishment is located in close proximity to other establishments selling alcoholic beverages, staff believes the physical and operational characteristics of the proposed establishment would make the continuation of alcoholic beverage sales appropriate at this location. Staff, including the Police Department, believes the expanded privileges requested, subject to the included conditions of approval, should not prove detrimental to the area considering the number and proximity of nearby establishments that serve alcohol.

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

1. Expanding the privileges of the existing establishment will allow the restaurant to diversify its offerings as a convenience to its patrons. There are no current objectionable conditions to resolve through approval of this Conditional Use Permit.

***Additional Considerations***

In accordance with 20.48.090 (Eating and Drinking Establishments), the review authority shall make the following considerations when reviewing an application to allow an eating or drinking place to sell, serve, or give away alcohol:

- i. Evaluate the potential impacts upon adjacent uses outlined in subsection (F)(3)(a) of this section (Late-Hour Operations). For the purposes of this subsection, "adjacent uses"

shall mean those uses within one hundred (100) feet of the proposed use, as measured between the nearest lot lines;

1. See facts in support of Finding F.
- ii. Consider the proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption;
  1. See facts in support of Finding F.iii.
- iii. Make the findings in Section 20.48.030(C)(3) (Alcohol Sales—Off-Sale).
  1. See facts in support of Finding F.

#### SECTION 4. DECISION.

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

1. The Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2019-050, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. 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 NBMC Title 20 Planning and Zoning.
4. This Resolution supersedes Use Permit No. UP3690 and Outdoor Dining Permit No. OD0032, which upon vesting of the rights authorized by this Conditional Use Permit, shall become null and void. However, the vested rights granted by Use Permit No. UP3690 and Outdoor Dining Permit No. OD0032 shall continue and are incorporated into this Conditional Use Permit.

**PASSED, APPROVED, AND ADOPTED THIS 19<sup>TH</sup> DAY OF MARCH, 2020.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Peter Koetting, Chairman

BY: \_\_\_\_\_  
Lee Lowrey, Secretary

**EXHIBIT “A”****CONDITIONS OF APPROVAL**

*(Project-specific conditions are in italics)*

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Conditional Use Permit No. UP2019-050 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the NBMC, unless an extension is otherwise granted.
3. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Conditional Use Permit.
5. This Conditional Use Permit may be modified or revoked by the City Council or 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.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
7. 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.
8. Prior to the issuance of any building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. A copy of this approval letter shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. Prior to the issuance of any building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Conditional Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural

sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Conditional Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

11. *The accessory outdoor dining area shall be used in conjunction with the related adjacent food establishment and shall be limited to a maximum of 179 square feet.*
12. *The seating within the accessory dining area shall be in substantial conformance with the approved outdoor dining plan entitled "Outdoor Dining Permit No. 32, Detail Seating Plan." The approved outdoor dining area shall be located on a solid surface in accordance with this approved seating plan.*
13. *The use of umbrellas only for sunshade purposes shall be permitted; however, awnings or other covering over the dining area shall be prohibited, unless otherwise approved by an amendment to this Conditional Use Permit and may also be subject to the approval of the Public Works Department.*
14. *There shall be no use of the accessory outdoor dining area separate from the interior of the restaurant.*
15. *No furniture, tables, or chairs shall not extend more than 10 feet from the face of the building into the public right-of-way.*
16. *A minimum 10-foot clear pedestrian pathway shall be provided between any vertical obstructions (i.e., light standards, parking meters, walls, furniture or chairs), unless otherwise approved by the Public Works Department. Umbrellas may not encroach beyond the dining area into the public right-of-way.*
17. *The hours of operation for the eating and drinking establishment shall be limited to the hours between 6 a.m. and 1:30 a.m., daily. All customers shall vacate the establishment no later than 30 minutes following this closing time. Alcohol sales and service shall not commence prior to 11 a.m., daily.*
18. *The use of elevated counters, tables, and barstools are prohibited in the outdoor patio area.*
19. *Alcoholic beverage sales from drive-up or walk-up service windows are prohibited.*
20. *The removal or relocation of tables, chairs, stools, or other furniture to accommodate an area for standing or dancing shall be prohibited.*
21. *This approval is for a food service, eating and drinking establishment (i.e., a restaurant). The off-sale alcohol component authorized by a Type 21 (Off-Sale General) ABC license shall remain incidental to the restaurant operation. There shall be no retail display of alcohol allowed that is visible from outside the restaurant.*

22. *There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.*
23. *Food sales from the walk-up service windows shall be prohibited after restaurant closing.*
24. *Alcoholic beverage sales from the walk-up service windows shall be prohibited.*
25. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
26. All proposed signs shall be in conformance with applicable provisions of NBMC Chapter 20.42 (Signs).
27. All lighting shall conform with the standards of Section 20.30.070 (Outdoor Lighting) of the NBMC. The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated. If outdoor lighting is proposed, the Applicant shall submit a photometric survey as part of the plan check to verify illumination complies with the Zoning Code standards.
28. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the NBMC. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

	Between the hours of 7 a.m. and 10 p.m.		Between the hours of 10 p.m. and 7 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

29. That no outdoor sound system, loudspeakers, or paging system shall be permitted in conjunction with the facility.
30. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday and 8 a.m. and 6 p.m. on

Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

31. 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).
32. 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. Graffiti shall be removed within 48 hours of written notice from the City.
33. Prior to final of the building permits, the Applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Division for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the NBMC that includes issuance of a citation of violation and monetary fines.
34. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 8 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Conditional Use Permit.
35. All doors and windows of the facility shall remain closed after 11 p.m., daily, except for the ingress and egress of patrons and employees.
36. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the trash container on pick-up days.
37. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the il Farro Caffe Trattoria Use Permit Amendment including, but not limited to, the Conditional Use Permit No. UP2019-050 (PA2019-162). 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.

### **Police Department**

38. The operator of the establishment shall secure and maintain an Operator License pursuant to NBMC Chapter 5.25.
39. The Operator License required to be obtained pursuant to Chapter 5.25 of the NBMC, may be subject to additional and/or more restrictive conditions such as a security plan to regulate and control potential late-hour nuisances associated with the operation of the establishment.
40. The Applicant shall maintain a security recording system with a 30-day retention and make those recordings available to the Police Department upon request.
41. A comprehensive security plan for the eating establishment shall be submitted for review and approval by the Newport Beach Police Department. The procedures included in the security plan shall be implemented and adhered to for the life of the Conditional Use Permit.
42. The approval is for the operation of il Farro Caffe Trattoria, a food service, eating and drinking establishment with late hours, outdoor dining, and on-sale and off-sale alcoholic beverage service. The type of alcoholic beverage licenses issued by the California Board of Alcoholic Beverage Control shall be a Type 47 (On-Sale General – Eating Place), a Type 58 (Caterer) and a Type 21 (Off-Sale General) in conjunction with the restaurant as the principal use of the facility. The off-sale component shall remain incidental and accessory to the principal use.
43. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.
44. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
45. *There shall be no amplified live entertainment allowed on the premise. Live entertainment shall be limited to acoustic sets only.*
46. There shall be no dancing allowed on the premises.
47. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
48. The service and sale of packaged alcoholic beverages (i.e., bottled or canned) on the outdoor dining area shall be prohibited.



49. Food service from the regular menu shall be made available to patrons until closing.
50. Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Newport Beach Police Department upon request.
51. The quarterly gross sales of alcoholic beverages shall not exceed 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 Newport Beach Police Department on demand.
52. 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.
53. Any event or activity staged by an outside promoter or entity, where the Applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
54. There shall be no on-site radio, televisions, 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.
55. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the NBMC to require such permits.
56. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
57. 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. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. 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.

58. Strict adherence to maximum occupancy limits is required.

**Building Division**

59. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. A building permit is required to allow the change in use to an eating and drinking establishment. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Complete sets of drawings including architectural, electrical, mechanical, and plumbing plans shall be required at plan check.
60. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

## **Attachment No. PC 2**

Draft Resolution for Denial

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## RESOLUTION NO. PC2020-009

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING CONDITIONAL USE PERMIT NO. UP2019-050 TO ALLOW A CHANGE IN THE HOURS OF OPERATION, HAPPY HOUR, THE SALE OF ALCOHOL FOR OFF-SITE CONSUMPTION, AND LIVE ENTERTAINMENT FOR AN EXISTING RESTAURANT LOCATED AT 111 21<sup>ST</sup> PLACE (PA2019-162)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by il Farro Caffè & Restaurant, Inc. dba il Farro Restaurant ("Applicant"), with respect to property located at 111 21<sup>st</sup> Place, and legally described as Lot 17 and a Portion of the Abandoned Street in Block 21 of Tract No. 512 ("Property"), requesting approval of a conditional use permit.
2. The Applicant requests to amend the currently effective Use Permit No. UP3690 and Outdoor Permit No. OD0032 in order to change operational restrictions for an existing restaurant. The Applicant specifically requests the following: (1) to change the allowed hours of operation to 6 a.m. to 1:30 a.m., daily, with alcohol service not beginning until 11 a.m.; (2) to allow a happy hour prior to 9 p.m.; (3) to allow the sale of alcohol for off-site consumption on a limited basis with a Type 21 Alcoholic Beverage Control ("ABC") License; and (4) to allow limited live entertainment ("Project").

The Property is designated by the City of Newport Beach General Plan Land Use Element and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("NBMC") as Mixed Use Water Related (MU-W2).

3. The Property is located within the coastal zone. The City of Newport Beach Local Coastal Program Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and it is within the Mixed-Use Water Related (MU-W2) Coastal Zoning District under Title 21 (Local Coastal Program Implementation Plan) of the NBMC. The present use of the Property is a restaurant. There is no physical expansion proposed as part of the Project nor is there any change proposed that is anticipated to significantly change the intensity of the existing use; therefore, a coastal development permit is not required.
4. A public hearing was held on March 19, 2020, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public 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.

The planning Commission may approve a use permit only after making each of the five (5) required findings set forth in 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:

### Findings for Conditional Use Permit:

- A. *The use is consistent with the General Plan and any applicable specific plan.*
- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.*
- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*
- 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.*
- 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, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

### Facts Not in Support of Findings:

- 1.

## SECTION 4. DECISION.

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

1. The Planning Commission of the City of Newport Beach hereby denies Conditional Use Permit No. UP2019-050.
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 NBMC Title 20 Planning and Zoning.

**PASSED, APPROVED, AND ADOPTED THIS 19<sup>TH</sup> DAY OF MARCH, 2020.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Peter Koetting, Chairman

BY: \_\_\_\_\_  
Lee Lowrey, Secretary

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## **Attachment No. PC 3**

Applicant's Project Description and  
Justification

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## II FARRO CAFFE TRATTORIA

December 2019

**TO:** GREGG RAMIREZ  
BENJAMIN M. ZDEBA, AICP  
COMMUNITY DEVELOPMENT DEPARTMENT  
CITY OF NEWPORT BEACH

**FROM:** Domenico Maurici  
Proprietor, il Farro Caffe & Restaurant Inc.  
d.b.a Caffe il Farro  
[mail@ilfarro.com](mailto:mail@ilfarro.com)  
714.662.0606  
<https://www.ilfarro.com/>

RECEIVED BY  
COMMUNITY  
JAN 07 REC'D  
DEVELOPMENT  
CITY OF NEWPORT BEACH

**LOCATION:** 111 21st Place Newport Beach, CA 92663

**SUBJECT:** Use Permit No. UP3690 and Outdoor Dining Permit No. OD0032

**DESCRIPTION:** Application Request No. PA2019-162 for Il Farro Restaurant Use Permit Amendment

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### ADDENDUM:

#### **Applicant Hours of Operation**

**Condition No. 14** - Modify use permit to include year-round, daily hours of operation to begin at 6:00am (currently 11:00am) to allow establishment to open for breakfast and host occasional private culinary events such as rehearsal dinners, graduation parties, birthdays or small weddings \*with alcohol beverage service to begin at 11:00 a.m. **Note:** Mr. Maurici is requesting no changes to the outdoor dining area current hours of operation. **Additionally, Please Note:** Mr. Maurici is requesting to change the establishment's existing closing hours of operation which currently are: 1:30 a.m. May through August to 1:30am year round.

#### **Security Plan – Question #19**

Il Farro Caffe Trattoria is a fine dining establishment – not a nightclub. There is currently no active security plan required, or, in place other than to call the City of Newport Beach Police if there is an emergency. Mr. Maurici always has a manger on duty restaurant operation and all seasoned food service staff members are well trained and have



completed a ServSafe Certification Class & Exam through the California Restaurant Association. If required for occasional private culinary event restaurant buy outs such as rehearsal dinners, graduation parties, birthdays or small weddings, Mr. Maurici will retain a City approved private security firm to guard the entrance points of the building.

**Condition No. 11** If the use permit is modified per the request of Mr. Maurici to allow limited live music for occasional private culinary events such as rehearsal dinners, graduation parties, birthdays or small weddings Mr. Maurici would allow, on the request of patrons, the opportunity to include a DJ, or single musician to entertain their private party during operational hours for background entertainment while dining.

There will be no change of the restaurant establishment floor plan and the occasional private culinary events would be limited to a maximum of (76) guests.

When private culinary events are booked the restaurant will be closed to the public with appropriate signage displayed at the restaurant entrance and if necessary Mr. Maurici would outsource a City of Newport Beach approved professional security guard to be stationed at the restaurant entrance points through a private security firm.

**Trash Area** - The trash and recycling area is located in the back of the restaurant in the alley. *(See Attached Photo #1)* The restaurant's waste and recycling area is cleaned daily and the trash is picked up 4x per week.

**Additional Operation Information** – The greatest number of employees staffing the restaurant at any one time is between 10-15 employees depending on the season. Some employees are local and ride their bikes and others park on available street side space and walk to restaurant.

Thank you in advance for your thoughtful consideration.  
Very Truly Yours,

Domenico Maurici, Proprietor  
IL FARRO CAFE & RESTAURANT INC.

cc: James Campbell, City of Newport Beach  
Mayor, Diane Dixon, City of Newport Beach  
Council Member, Brad Avery  
Department of Alcoholic Beverage Control, State of California





## II FARRO CAFE TRATTORIA

August 2019

**TO:** GREGG RAMIREZ  
COMMUNITY DEVELOPMENT DEPARTMENT  
CITY OF NEWPORT BEACH

**FROM:** Domenico Maurici  
Proprietor, il Farro Caffe & Restaurant Inc.  
d.b.a Caffe il Farro  
[mail@ilfarro.com](mailto:mail@ilfarro.com)  
714.662.0606  
<https://www.ilfarro.com/>

**LOCATION:** 111 21st Place Newport Beach, CA 92663

**SUBJECT:** Alcohol Beverage License - Use Permit No. 3690

**DESCRIPTION:** An application request to upgrade an existing alcohol license

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**REQUEST:** Domenico Maurici, Proprietor of Il Farro Caffe & Restaurant Inc. (DBA Caffe il Farro) located at 111 21<sup>st</sup> Place in Newport Beach CA 92663 would like to request an upgrade to the existing Use Permit No. 47-3690 to modify the following current restrictions:

**Condition No. 14** - Modify alcohol license to include year-round, daily hours of operation to begin at 6:00am to allow establishment to open for breakfast and host private culinary events with alcohol beverage service to begin at 11:00am.

**Condition No. 1** - Modify alcohol license to allow "happy hour" promotion, and upgrade the establishment's service bar.

**Condition No. 7** - Modify alcohol license to include the sale of alcohol beverages for consumption off the premises in response to the ongoing request of loyal patrons who would like to purchase a premium bottle of wine from the establishment's renowned wine list menu as well as stay relevant and profitable in the highly competitive online sales, digital sector and culinary industry. There will be no retail display set up inside the establishment.



**Condition No. 11** - Modify alcohol license to allow limited live music for private culinary events only and allow on request of patrons the opportunity to include a DJ, or single musician to entertain their private party from 11:00am-11:00pm for background entertainment while dining. There will be no change of restaurant establishment floor plan.

Mr. Maurici would like to expand the off-site sales division of Il Farro Caffe & Restaurant Inc through the use of his web site to offer online sales of exclusive Wines from Italy to his patrons. These items are requested by his patron and many of these products are rare, unique and not available for purchase in the state of California.

Currently, the use of the Internet as a sales and marketing tool is becoming widespread in the alcoholic beverage industry. In the retail sector, Internet-based companies currently with little or no physical presence in California are seeking to offer alcoholic beverages for sale to consumers in this City and state.

This request is to upgrade the existing alcohol license to permit the online retail sale and limited shipment of wine and spirit beverages to il Farro Caffe & Restaurant Inc. for off-site consumption in conjunction with the existing restaurant.

Mr. Maurici is open to conditions on this request as his intent is to sell online. The use of the Internet as a sales and marketing tool is becoming widespread in the alcoholic beverage industry. In addition to providing increased sales tax revenue to the City and State, Mr. Maurici feels this opportunity will better allow his business to remain profitable in a highly competitive market. All processed and fulfilled online orders will comply with all applicable laws and rules, which include storage, delivery and recordkeeping requirements.

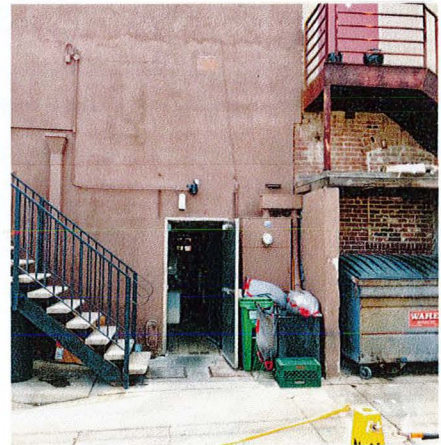
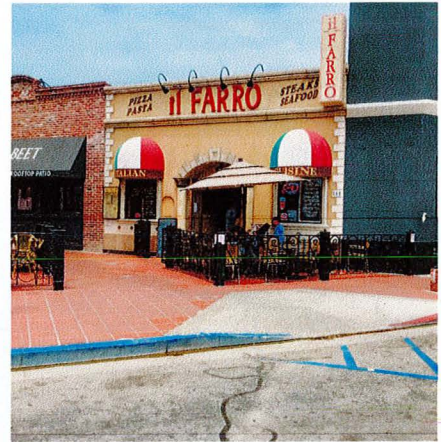
Thank you in advance for your thoughtful consideration.

Very Truly Yours,

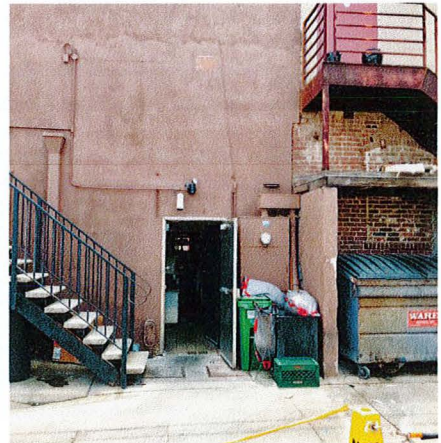
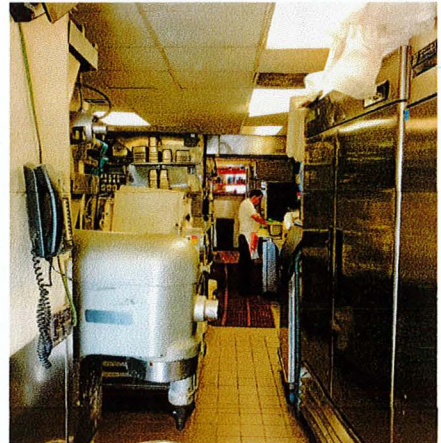
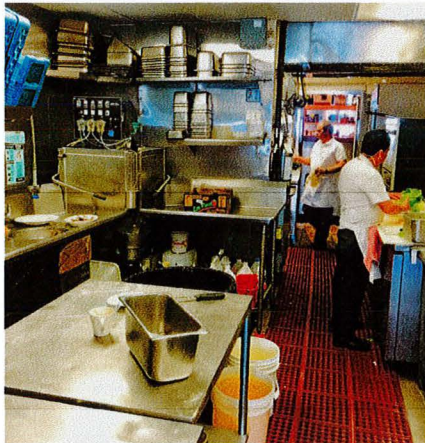
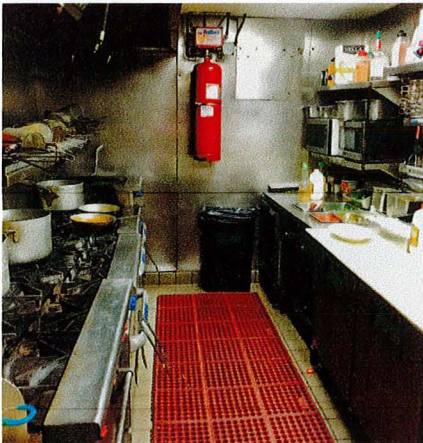
Domenico Maurici, Proprietor  
IL FARRO CAFE & RESTAURANT INC.

cc: James Campbell, City of Newport Beach  
Mayor, Diane Dixon, City of Newport Beach  
Council Member, Brad Avery  
Department of Alcoholic Beverage Control, State of California











## ANTIPASTINI – STARTERS

<b>MOZZARELLA CAPRESE</b>	12
fresh mozzarella cheese with sliced fresh tomato, basil & extra virgin olive oil.	
<b>BRUSCHETTA PRIMAVERA</b>	10
Toasted garlic brushed farro bread with provolone, fresh tomato, olives, red onion, basil, home Italian balsamic dressing.	
<b>CARPACCIO DI BUE</b>	13
Thin slices of raw beef filet with arugula and shaved Parmesan cheese in a lemon dressing.	
<b>SHIITAKE FRITTI AL TARTUFO</b>	15
Fried SHIITAKE mushrooms and 24 months age Parmesan cheese.	
<b>FRITTURA MISTA</b>	16
Fried Calamari, tiger shrimps and zucchini with a spicy tomato sauce.	
<b>POLIPO ALLA MEDITERRANEA</b>	16
Octopus salad, fingerling potato, cherry tomatoes with mix green lemon dressing.	
<b>BURRATA CON RUCOLA</b>	13
Fresh stuffed mozzarella with arugula and cherry tomato in a olive oil Extra virgin olive oil, balsamic vinegar.	
<b>TIMBALLO DI MELANZANE PARMIGIANA</b>	12
Baked Eggplant, parmigiano Reggiano, mozzarella, San marzano tomatoes basil sauce.	
<b>AFFETTATO MISTO</b>	14
A selection of imported Italian cured salami & cheeses, prosciutto, soppressata, mortadella and mix italian imported cheeses.	

## ZUPPE – SOUP'S

<b>ZUPPA DEL GIORNO</b> - Soup of the day.	9
<b>MINISTRONE</b> - Mix fresh vegetables soup.	9
<b>ZUPPA DI FARRO</b>	9
Homemade Farro with fresh tomato Roma, bacon and vegetables.	
<b>Pasta Fagioli e FARRO</b>	9
Traditional Italian bean soup with pasta, bacon and Farro grain.	

## \*INSALATE – SIDE SALADS

<b>DELLA CASA</b>	9
House mix spring lettuce, home balsamic dressing.	
<b>INSALATA CALABRESE</b>	10
Fresh sliced tomatoes, cucumber, red onion, fresh Fennel & basil, Italian dressing.	
<b>DI CESARE</b>	12
Romaine lettuce, garlic crutones and Parmisan cheese in a house caesar dressing.	
<b>IL FARRO FETA</b>	13
Mixed spring lettuce with Farro grain, chopped tomatoes carrots, feta cheese, home balsamic dressing.	
<b>DI POMODORI E CAVOLO</b>	13
Sliced tomatoes, baby kale, baby spinach, lettuce, bocconcini, cheese mozzarella, home balsamic dressing.	
<b>ADD –</b>	
Salmon \$10 (4oz.)	Chicken \$6
Shrimp \$10 (3)	Italian cold cuts \$7

## PASTE – PASTA'S

**GLUTEN FREE PASTA, available with any sauce, add \$5**

### DRY PASTA

<b>SPAGHETTI AL POMODORO E BASILICO or BOLOGNESE</b>	12
Spaghetti pasta with tomato basil sauce.	
Spaghetti meat sauce	14
<b>FETTUCCINE ALFREDO O AL PESTO DI BASILICO</b>	15
Fettuccine pasta with Alfredo cream sauce or basil pesto cream sauce.	
<b>PENNETTE PICCANTI</b>	17
Penne pasta with Italian sausages and red hot peppers in a fresh tomato sauce.	
<b>BAVETTE ALLE VONGOLE</b>	21
Linguini pasta with fresh Manila clams, parsley, garlic in a white wine sauce or red sauce.	
<b>RIGATONI FREDDA</b>	16
Tubular pasta with eggplant Italian sausage marinara & red pepper.	
<b>ELICHE TROPEANI</b>	17
Spiral pasta with chicken, mushrooms, garlic in a pink sauce.	
<b>LINGUINE DEL PESCATORE.</b> Linguine pasta with fresh catch of the day, fresh manila clams, black mussels, calamari, bay & tiger shrimp, garlic, white wine, tomato basil sauce with a touch of red pepper.	33

### HAND MADE PASTA

<b>RAVIOLI Di FORMAGGIO AL POMODORO O PESTO:</b>	
Four Cheese Ravioli -With Marinara tomato basil	17
-With Pesto basil sauce	18
<b>TORTELLINI P.P.P.</b>	18
Homemade cheese tortellini with ham, peas, cream and Parmesan cheese.	
<b>PAPPARDELLE AL "RAGU"</b>	22
Homemade egg pasta with meat Ragu sauce cooked slowly like the old Emilian tradition.	
<b>GNOCCHI DI PATATE ALLA SORRENTINA</b>	18
Homemade potato gnocchi with tomato sauce and fresh mozzarella cheese.	
<b>GNOCCHI DI ZUCCA AL BURRO E SALVIA</b>	18
A new trend in pasta, light potato dumpling filled with baked pumpkin in a butter sage sauce with a touch of cream.	
<b>RAVIOLI DI SPINACI AL ZAFFERANO</b>	19
Homemade whole wheat ravioli filled with spinach & ricotta cheese in saffron sauce with asparagus & chopped tomatoes.	
<b>LASAGNA TIPICA EMILIANA</b>	17
Homemade fresh pasta sheets with meat sauce, béchamel, mozzarella & parmesan cheese.	
<b>RAVIOLI D'ARAGOSTA E GRANCHIO ALL VODKA</b>	28
Home handmade ravioli filled with lobster, crab, ricotta cheese in a vodka sauce.	

## FARRO SPECIALTIES

Farro grain cooked like a risotto style 100% organic. Low gluten, low carb, high fiber.

<b>FARROTTO ALLA MILANESE</b>	24
Farro grain with shrimp garlic, asparagus in a saffron turmeric cream.	
<b>FARROTTO FORESTIERA</b>	23
Chicken tender, spinach, mushrooms, asparagus, tomato, red onion, basil & parmesan cheese.	
<b>FARROTTO CON SALSICCIA.</b>	21
Italian sausages, fresh tomato, garlic, basil & parmesan cheese.	
<b>FARRILLI MARE E MONTI ARRABIATA</b>	22
Spiral Farro pasta with shrimps and chopped tomatoes, SHIITAKE mushroom, red pepper, arugula & pecorino cheese.	

## NEW DISH PREPARED TABLE SIDE

**NEW!**

### PASTA NELLA RUOTA :

<b>FARROTO CACIO PEPE</b>	20
<b>MALTAGLIATI DI SPINACI CACIO PEPE</b> (spinach noodles)	20
Sautéed in a buttered, black pepper, tossed in Parmesan cheese wheel table side.	

## ASK ABOUT

**CHEF'S DAILY MEAT SELECTION & CHEF'S DAILY FRESH MARKET SEAFOOD.**  
The Chef will be happy to make any Special Request  
OR \*vegans requests, if available.

## SECONDI PIATTI – MAIN COURSE

<b>MISTO PESCE</b>	33
Grilled mixed seafood with salmon, branzino, jumbo shrimp lemon garlic white wine sauce. Served with seasonal veggies.	
<b>SALMONE GRIGLIATO CON FARRO E SALSA VELLUTATA</b>	24
Grilled salmon with farro grain sautéed in a garlic butter sauce. Served with seasonal veggies.	
<b>FILETTI DI BRANZINO ALLA GRIGLIA</b>	28
Filet of Mediterranean sea bass grilled with crumbled pistacchio. Served with a side of seasonal veggies. (**because of the nature of this delicious small fish you may find small bones)	
<b>CIOPPINO POSILIPO</b>	35
A delicious mix seafood dish, fresh black mussels, octopus, fresh manila clams, calamari, tiger shrimps, bay scallops, fish catch of the day, garlic, red pepper & fresh tomato in a white wine sauce, served with Farro crostini.	
<b>MISTO CARNE AI PORCINI</b>	33
Mix grill of Rib-Eye steak, breast of chicken & italian sausages with porcini mushroom sauce. Served with seasonal veggies.	
<b>BISTECCA AI FUNGHI E RIDUZIONE DI SALSA ARROSTO</b>	32
Rib-Eye steak grilled with mushrooms sautéed in a Demi Glaze reduction. Served with a side of seasonal veggies.	
<b>SCALOPPINE DI VITELLO AL MARSALA</b>	20
Pounded Veal top round with Porcini mushrooms in a Marsala wine sauce. Served with side of seasonal veggies.	
<b>PICCATA DI POLLO AL LIMONE E CAPPERI</b>	19
Pounded chicken breast with lemon cappers sauce. Served with a side of seasonal veggies.	
<b>PETTO DI POLLO ALLA PARMIGIANA</b>	20
Pounded breaded chicken breast with tomato sauce, mozzarella cheese then baked. Served with a side of seasonal veggies.	

## PIZZA

<b>PIZZA MARGHERITA</b>	11
Mozzarella cheese & tomato sauce with fresh basil.	
<b>QUATTRO STAGIONI</b>	12
Ham, artichokes, olives, mushrooms, mozzarella & tomato sauce.	
<b>CAPRICCIOSA.</b>	14
Ham, artichokes, olives, mushrooms, bell peppers, mozzarella & tomato.	
<b>PIZZA PROSCIUTTO DI PARMA</b>	15
Mozzarella and tomato sauce with prosciutto aged 18 months from Parma Italy.	
<b>PIZZA PRIMAVERA</b>	12
Mozzarella fresh tomato sauce mushrooms red onion sun dried tomato.	
<b>DIAVOLA</b>	14
Fresh tomato, mozzarella & spicy soppressata salami.	
CREATE YOUR OWN with the items available ADD \$1 per item.	

## CONTORNI – SIDES

<b>SPINACI</b> Sautéed spinach with garlic and olive oil.	6
<b>RAPINI BROCCOLETTI</b>	10
Sautéed broccoli rape with garlic & olive oil.	
<b>FAGGIOLINI</b> Sautéed string beans with butter and shallots.	6
<b>ASPARAGI</b> Sautéed asparagus with butter and shallots.	8
<b>PATATE ARROSTO</b>	5
Potato cooked in the oven with rosemary and garlic.	
<b>CONTORNO DI PASTA</b> Side of penne pasta in a pink sauce.	6
<b>FARROTTO ALLA ROMANA</b>	9
Farro risotto with parmesan cheese, shallots and butter.	

**FOR LUNCH - SPECIAL MENU AVAILABLE**

## HOMEMADE DESSERTS

Ask for our homemade desserts tray!

**HAPPY HOURS**

-MENU AVAILABLE

&

- DRINKS -COCKTAILS -WINES

FROM 2 pm TO 5 pm

FROM 11 am - 5 pm

**SPICY**

**GLUTEN FREE**

**V VEGAN**

**CATERING AVAILABLE FOR ANY IMPORTANT CELEBRATION.**

Tipping suggestion 15%-20% All sales plus tax.  
Please notify your server of any food allergies or dietary restrictions.

**\*\*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs, may increase your risk of food-borne illness, specifically if you have certain medical conditions. Some fish plates could have bones or pits in olives.**



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## **Attachment No. PC 4**

Police Department Memorandum

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**NEWPORT BEACH POLICE DEPARTMENT  
DETECTIVE DIVISION**

**MEMORANDUM**

TO: Ben Zdeba, Associate Planner

FROM: Wendy Joe, Police Civilian Investigator

DATE: March 10, 2019

SUBJECT: Il Farro Caffe and Restaurant  
111 21<sup>st</sup> Place  
PA2019-162

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The below is an update to the previous memo dated October 1, 2019.

**Statistical Data and Public Convenience or Necessity**

Updated Crime and Alcohol Statistics for 2019:

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 111 21<sup>st</sup> Place located within Reporting District (RD) 15.

RD 15 is our highest crime area in Newport Beach with significant quality-of-life concerns for the residents, as well as the Police Department. 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 614, 357% over the City-wide crime count average of 140. 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 (8<sup>th</sup> Street to 20<sup>th</sup> Street) is 23% above the City-wide average, RD 12 (B Street to 8<sup>th</sup> Street) is 9% above and RD 16 (37<sup>th</sup> Street to 54<sup>th</sup> Street) is 91% above. Of 38 reporting districts in Newport Beach, we reported 11 to ABC as high crime areas for 2019.

The highest volume crime in this area is simple assault, which may be indicative of an overconsumption of alcohol. The highest volume arrest in the area is Public Intoxication.

DUI, Public Intoxication, and liquor law violations make up 32% of arrests in this reporting district. In comparison, the figure for neighboring RD 13 is 26%, RD 12 is 28% and RD 16 is 29%.

**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 91 active alcohol licenses. That is a per capita ratio of 1 license for every 63 residents. Per the Business and Professions code, we compare this per capita ratio to Orange County's on-sale per capita ratio of 1 license for every 467 residents. *This location meets the legal criteria for undue concentration (B&P §23958.4).*

### **Discussion**

The Police Department's memo dated October 1, 2019 has a typo in the requested closing hour. Clarification:

- The applicant's current hours of operation are: 11:00 a.m. to 1:30 a.m. May through August and 11:00 a.m. to 12:30 a.m. September through April. The applicant requests to modify the hours of operation to the following: 6:00 a.m. to 1:30 a.m., daily. The Police Department has no objections to this request as currently the applicant restaurant is allowed late hours until 1:30 a.m. in the busiest season of the year.

Operator License:

- Should this project be approved, an Operator License will be required. The Police Department has received an application for an Operator License however the required Security Plan is not complete. Due to the late closing hour, a more robust security plan will be required.

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](mailto:wjoe@nbpd.org).



Wendy Joe

Police Civilian Investigator, Special Investigations Unit



Randy Parker

Detective Sergeant, Special Investigations Unit



CHIEF JON T. LEWIS

# NEWPORT BEACH POLICE DEPARTMENT

## 2019 CRIME AND ALCOHOL-RELATED STATISTICS

### SUMMARY FOR IL FARRO CAFFE & RESTAURANT AT 111 21ST PLACE (RD15)

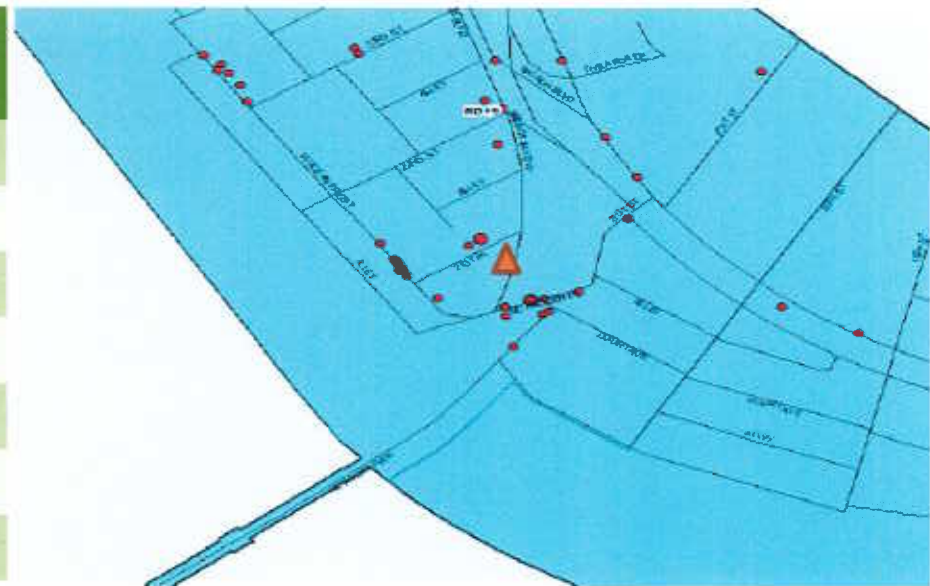
Subject:	Part I Crime	Diff From Avg	% Diff From Avg	Part I Arrests	Diff From Avg	% Diff From Avg	Part II Crime	Diff From Avg	% Diff From Avg	Part II Arrests	Diff From Avg	% Diff From Avg	Crime Count	Diff From Avg	% Diff From Avg
111 21ST PLACE	0	N/A	N/A	0	N/A	N/A	1	N/A	N/A	1	N/A	N/A	1	N/A	N/A
Subject RD: RD15	136	+87	+175%	27	+21	+364%	550	+459	+505%	478	+394	+471%	614	+481	+357%
Adjacent RD: RD13	38	-11	-23%	4	-2	-31%	177	+86	+95%	132	+48	+58%	170	+37	+23%
Adjacent RD: RD16	57	+8	+15%	4	-2	-31%	139	+48	+53%	203	+119	+143%	260	+127	+91%
Adjacent RD: RD12	58	+9	+17%	6	+0	+3%	80	-11	-12%	93	+9	+11%	151	+18	+9%
Newport Beach	1,877	RD Average = 49		221	RD Average = 6		3,454	RD Average = 91		3,181	RD Average = 84		5,058	RD Average = 140	

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 2019.

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

ABC Info			
Subject:	Population	Active Licenses	License Per Capita
111 21ST PLACE	N/A	0	N/A
Subject Census Tract: 635	5,726	91	63
Adjacent Census Tract: 628	4,220	40	106
Adjacent Census Tract: 636.03	6,221	9	691
Adjacent Census Tract: 634	4,795	47	102
Newport Beach	85,186	461	185
Orange County	3,010,232	6,452	467

Number of Active ABC Licenses is the total of all types of retail licenses known to the NBPD as of 3/5/2020.  
All Population figures taken from the 2010 US Census.



= Subject Location

3/11/2020



**NEWPORT BEACH POLICE DEPARTMENT  
DETECTIVE DIVISION**

**MEMORANDUM**

TO: Ben Zdeba, Associate Planner

FROM: Wendy Joe, Police Civilian Investigator

DATE: October 1, 2019

SUBJECT: Il Farro Caffè and Restaurant  
111 21<sup>st</sup> Place  
PA2019-162

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At your request, the Police Department has reviewed the project application for Il Farro Caffè and Restaurant located at 111 21<sup>st</sup> Place, Newport Beach. Per the project description, the applicant is seeking to amend their Conditional Use Permit (CUP) to modify several current conditions and allow for live entertainment. Should this project be approved, an Operator License will be required.

**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 111 21<sup>st</sup> Place.

**Crime Statistics:**

The Police Department divides the City into areas referred to as Reporting Districts. This allows the Police Department to compile statistical data, as well as better communicate officer locations while policing. The proposed applicant location is within Reporting District (RD) 15 which stretches from 20<sup>th</sup> Street to 37<sup>th</sup> 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 I crimes), combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to the Department of Alcoholic Beverage Control (ABC). These figures make up the "Crime Count" which is indicated on the attached statistical data form.

RD 15 is our highest crime area in Newport Beach with significant quality-of-life concerns for the residents, as well as the Police Department. 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, 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 (8<sup>th</sup> Street to 20<sup>th</sup> Street) is 94% above the City-wide average, RD 12 (B



Street to 8<sup>th</sup> Street) is 19% below the City-wide average and RD 16 (37<sup>th</sup> Street to 54<sup>th</sup> Street). Of 38 reporting districts in Newport Beach, we reported 12 to ABC as high crime areas.

The highest volume crime in this area is simple assault, which may be indicative of an overconsumption of alcohol. 37% of the arrests were for public intoxication, DUI, or liquor law violations. The highest volume arrest in the area is Public Intoxication.

#### 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 77 active retail licenses. That is a per capita ratio of 1 license for every 74 residents. Per the Business and Professions code, we must compare this per capita ratio to Orange County's on-sale per capita ratio of 1 license for every 507 residents. Since the area's ratio exceeds the ratio of retail licenses to population in the county, the area is deemed to have an undue concentration of alcohol licenses.

#### **Discussion and Recommendations**

The primary concern with this application is the establishment's location and the potential impacts to the community. There are 22 ABC Establishments within the McFadden Square area from the Pier to 23<sup>rd</sup> Street. This particular area of RD 15 is significantly over saturated with ABC establishments. Each weekend, several officers must post in the McFadden Square parking lot at bar closing to monitor the intoxicated individuals that exit the restaurants and bars.

Should this project be approved, an Operator License will be required. The Police Department has received an application for Operator License however the required Security Plan was not yet submitted.

The applicant has made several requests within the application to modify the alcohol license. The applicant's alcohol license has no conditions. The applicant currently holds two Alcoholic Beverage Control (ABC) licenses: a Type 47 On-Sale General Eating Place and a Type 58 Caterer Permit. The Type 47 License authorizes the sale of beer and wine for consumption off the licensed premises, it does not authorize internet sales.

- The applicant's current hours of operation are: 11:00 a.m. to 1:30 a.m. May through August and 11:00 a.m. to 12:30 a.m. September through April. The application requests to modify the hours of operation to the following: 6:00 a.m. to 11:00 p.m. Monday through Friday, and 6:00 a.m. to 12:30 p.m., Saturday and Sunday. The Police Department has no objections to this request.
- The applicant requests to modify the use permit to allow happy hour pricing. The Police Department objects to this request after 9:00 p.m., daily. Otherwise the Police Department has no objections to an earlier happy hour.
- The applicant requests to "upgrade the establishment's service bar". The Police Department cannot make a determination on this request with the supplied information.
- The applicant is requesting to sell wine and spirits for consumption off the premises, at the premises and online. The Police Department does not object to the sales of wine or spirits online. We do not object to off-sales of wine from the premises. However, the Police Department does object to any off-sales of spirits from the premises. No retail display of

alcohol shall be within the public areas of the restaurant. The applicant would need to acquire a Type 21 "Store Front" liquor license which would authorize online sales from this location.

- The applicant is requesting to allow live entertainment from 11:00 a.m. to 11:00 p.m. daily. The Police objects to amplified music in the establishment. We do not object to acoustic live entertainment.

### **RECOMMENDED CONDITIONS OF APPROVAL**

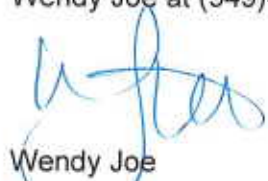
Should the project be approved, the Police Department requests the following conditions be evaluated for this use permit.

1. The approval is for an eating and drinking establishment with on-sale alcoholic beverage service. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be Type 47 (On-Sale General – Eating Place), Type 58 (Caterer) and Type 21 (Storefront Sales) licenses in conjunction with the restaurant as the principal use of the facility.
2. 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.
3. 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.
4. The quarterly gross sales of on-sale alcoholic beverages shall not exceed 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.
5. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
6. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
7. Food sales from the walk-up service windows shall be prohibited after restaurant closing.
8. Alcoholic beverage sales from the walk-up service windows shall be prohibited.

9. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
10. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
11. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
12. Dancing is prohibited.
13. Strict adherence to maximum occupancy limits is required.
14. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. 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.
15. 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, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
16. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
17. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of onsite media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
18. The applicant shall maintain a security recording system with a 30-day retention and make those recordings available to police upon request.
19. An Operator License is required pursuant to Chapter 5.25 of the Municipal Code, may be subject to additional and/or more restrictive conditions such as a security plan to regulate and control potential late-hour nuisances associated with the operation of the establishment.

Il Farro  
PA2019-162

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](mailto:wjoe@nbpd.org).



Wendy Joe

Police-Civilian Investigator, Special Investigations Unit



Randy Parker

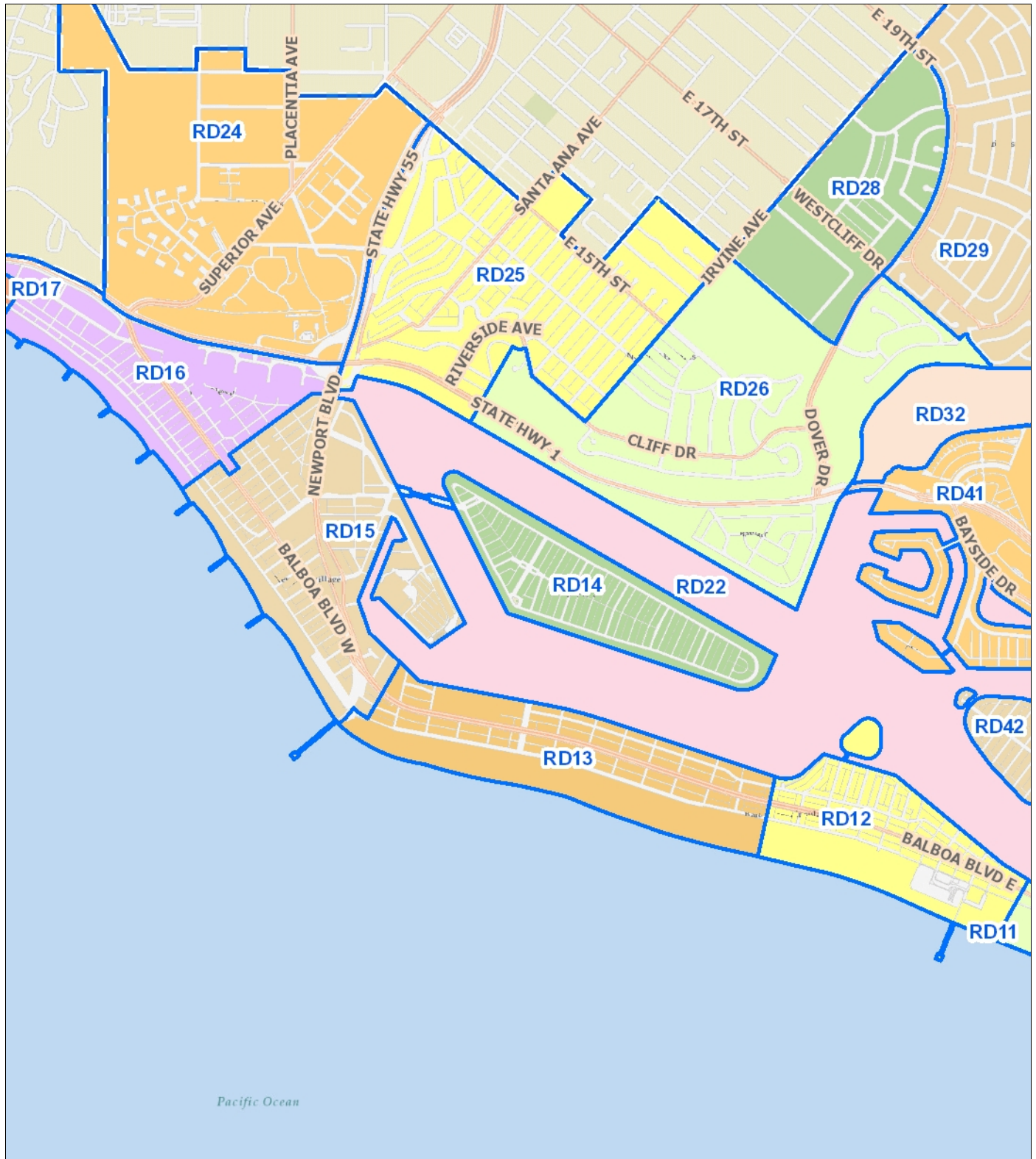
Detective Sergeant, Special Investigations Unit

# **Attachment No. PC 5**

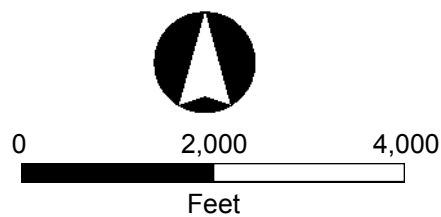
Reporting District Map

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**NBGiS**  
NEWPORT BEACH



Disclaimer:  
Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

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# **Attachment No. PC 6**

Project Plans

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# FLOOR PLANS

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