RESOLUTION NO. ZA2022-024

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MINOR USE PERMIT NO. UP2021-048 FOR A FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT WITH A TYPE 41 ALCOHOLIC BEVERAGE CONTROL LICENSE (ON-SALE BEER AND WINE) WITH NO LATE HOURS LOCATED AT 191 RIVERSIDE AVENUE (PA2021-269)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Amy Bagley of Steiner Studio, with respect to property located at 191 Riverside Avenue, and legally described as Portion of Lot F in Tract 919 requesting approval of a minor use permit.

2. The applicant proposes to convert an existing retail space within the Garden Shopping Center into a food service, eating and drinking establishment (Starfish Newport Beach) including a Type 41 Alcoholic Beverage Control (ABC) License (On-Sale Beer and Wine) with no late hours.

3. The subject property is designated Mixed-Use Horizontal 1 (MU-H1) by the General Plan Land Use Element and is located within the Mixed-Use Mariners’ Mile (MU-MM) Zoning District.

4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Horizontal (MU-H), and it is located within the Mixed-Use Mariners’ Mile (MU-MM) Coastal Zone District.

5. A public hearing was held on April 14, 2022, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this 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, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The proposed project involves only minor tenant improvements with no expansion in floor area or change in parking requirements.
SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the findings for a use permit are set forth:

Finding

A. 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 Section 20.48.030 (Alcohol Sales) 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 crime rate in the subject reporting district (RD 25) as well as all three (3) of the adjacent RDs (Reporting Districts) are above the City average. RD 25 contains the Mariners’ Mile area from Tustin Avenue to Newport Boulevard, north of Coast Highway including the Garden Shopping Center, vehicle dealerships and various retail and restaurants. The purpose of the zoning of these commercial areas is to provide various commercial and retail uses to support the surrounding residential area as well as the surrounding tourist destinations. Therefore, these beach areas with a higher concentration of commercial land uses tend to have a higher crime rate than adjacent RDs.

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

1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are the second highest amongst the adjacent RDs. Additionally, this is the Coast Highway area that is considered one of the most significant tourist areas of the City.

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 subject property is in a mixed-use district where residential development is permitted above the first floor. However, the Garden Shopping Center does not include any residential development and there are no plans to add mixed-use. The closest residential neighborhood is across Avon Street along Cliff Drive (150 feet) and across Riverside Avenue along Oceanview Avenue (175 feet). The Avon and Riverside streets provide a buffer to the commercial area. Additionally,
the hours of operation do not extend past 10:00 p.m., and there is no outdoor
dining or live entertainment.

2. The nearest place of recreation, Cliff Drive Park and Community Center, is
located approximately 50 feet behind the Garden Shopping Center across Avon
Street and approximately 100 feet from Starfish Newport Beach. The nearest
church, St. Andrews, is located approximately 4 miles northeast. The nearest
school, Ensign Intermediate School, is located approximately 4 miles to the east.
The Property is not located in close proximity to a daycare center. The Project is
otherwise surrounded by other commercial retail and office uses.

3. The commercial area along Coast Highway is generally characterized by a high
number of visitors, in which commercial and residential zoning districts are
located in close proximity to one another. This location along Coast Highway
within the Garden Shopping Center has greater distance from sensitive land uses
than other commercial areas

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

1. The Garden Shopping Center was designed to accommodate multiple food
service uses including C'est Si Bon Bakery and a future restaurant that is still
within the entitlement process. C'est Si Bon does not serve alcohol. Many of the
existing establishments selling alcoholic beverages are on the north and south
side of Coast Highway along the bay including:

- The Rusty Pelican, a food service with no late hours, outdoor dining,
  and a Type 47 (On Sale General) ABC license located at 2735 West
  Coast Highway;
- GuacAmigos, a food service with late hours, outdoor dining and a Type
  47 (On Sale General) ABC license;
- A Market and Restaurant, a food service with outdoor dining, a Type
  41 (On Sale Beer and Wine) ABC license and no late hours located at
  3400 West Coast Highway;
- The Winery Restaurant Newport Beach, a food service with no late
  hours, outdoor dining, a Type 41 (On Sale Beer and Wine) ABC license located at 3131 West Coast Highway;
- Louie’s by the Bay, a food service with no late hours, outdoor dining, a
  Type 47 (On Sale General) ABC license located at 2801 West Coast
  Highway; and
- CP Restaurant & Lounge, a food service with late hours, outdoor
  dining, dancing, a Type 47 (On Sale General) ABC License located at
  2800 West Coast Highway.

The RD 25 statistics indicate an overconcentration of ABC licenses within this
statistical area.
2. The per capita ratio of on-sale retail is one (1) license for every 251 residents and is higher than the adjacent districts and the average ratio for Orange County. The per capita ratio of off-sale retail is one (1) license for every 654 residents and is higher than the adjacent districts and the average ratio for Orange County. This is due to the higher concentration of commercial land uses, alcohol licenses attributed to adjacent marina operations, lower number of residential properties, and high number of restaurants along Coast Highway. While the proposed restaurant is located in close proximity to other establishments, the location along Coast Highway, an established commercial area, together with the proposed operational characteristics would make the service of alcoholic beverages appropriate. The Police Department does not anticipate any increase in crime or alcohol-related incidents with the approval of this application subject to the proposed conditions of approval.

3. Due to the type and operation of the restaurant which is conditioned to close at 10:00 p.m. with limited net public areas, and the incorporation of additional conditions to prevent the restaurant from operating as a bar or lounge, the proximity to other establishments does not appear to create a foreseeable concern.

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

1. The Project has been reviewed and conditioned to help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the establishment. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. All employees serving alcohol will be required to complete a certified training program in responsible methods and skills for selling alcoholic beverages, as required by the State of California.

2. Offering alcohol service will complement the food service and provide a convenience to customers. The Police Department has no objections to the operation given the proposed hours of operation, license type, and location of the use. The resolution includes conditions of approval to limit objectionable conditions related to noise and trash from the establishment.

Minor Use Permit

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

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

Facts in Support of Finding

1. The General Plan designates the site as Mixed-Use Horizontal (MU-H1) which applies to areas on the inland side of Coast Highway in the Mariners’ Mile Corridor where it is the intent to establish marine-related and highway-oriented general commercial uses.

2. The proposed food service establishment including alcohol service is consistent with the MU-H1 designation as it is intended to serve nearby residents, the surrounding community, and visitors to the City of Newport Beach.

3. Several mixed-use structures including visitor serving commercial, such as eating and drinking establishments with alcohol service uses, exist nearby and are complementary to the surrounding commercial and residential uses.

4. The subject property is not part of a specific plan area.

Finding

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

Facts in Support of Finding

1. The property is designated by the Zoning Code as Mixed-Use Mariners Mile’ (MU-MM), which applies to properties located on the inland side of Coast Highway in the Mariners’ Mile Corridor and properties, such as these that front on Coast Highway, are intended to provide nonresidential uses only. The proposed full service, eating and drinking establishment with alcohol service and no late hours within the existing Garden Shopping Center requires a new minor use permit pursuant to Table 2-8 of Newport Beach Municipal Code Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements). The property is located approximately 127 feet from a residential zoning district.

2. The existing property was renovated into the Garden Shopping Center in 2018 and was intended to provide various retail and service uses including this type of food service establishment. There are conditions limiting the net public area so that there is no intensity of parking from the existing retail space as discussed in Fact No. C.3 below.

3. The required parking rate range for food service use is one (1) space per 30 to 50 square feet of net public area. The exact rate is determined based on the characteristics of the food service use. The proposed food service, eating and drinking establishment is small in nature within an existing shopping center with various retail and service uses with a few food service establishments. The net public area is small with 385 square feet and
14 seats, and a larger to-go component. The wine/sushi bar includes seven (7) of the 14 seats. There is no outdoor dining, late hours, live entertainment, or dancing. Based on these operational characteristics, the rate of one (1) space per 50 square feet of net public area is the appropriate rate. The Garden Shopping Center provides 123 total shared parking spaces. The existing retail space is allocated eight (8) parking spaces with a parking rate of one (1) space per 250 square feet. The proposed food service, eating and drinking establishment with 385 square feet of net public area, requires one (1) space per 50 square feet of net public area or eight (8) spaces. Therefore, there are no additional parking spaces required.

4. As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments.

Finding

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

Facts in Support of Finding

1. The existing 1,814-square-foot retail space will be improved with kitchen facilities, indoor storage and washing areas, dedicated wash down area that will drain directly into the sewer system; and a 385-square-foot net public area including a small wine/sushi bar with a total of approximately 14 seats.

2. The hours operation of the food service are restricted to the hours between 10 a.m. and 9 p.m., Sunday through Thursday, 10 a.m. to 10 p.m., Friday and Saturday. These hours are consistent with the business hours of other restaurants and uses in the commercial area.

3. The existing retail space is allocated eight (8) parking spaces at a parking rate of one (1) space per 250 square feet. The proposed food service, eating and drinking establishment with 385-square-feet of net public area, requires one (1) space per 50 square feet of net public area or eight (8) spaces. Therefore, there is no additional parking required. Additionally, the location provides a walkable food service establishment to the surrounding residential neighborhood.

4. The surrounding area contains various, retail and visitor serving commercial uses including restaurants with alcohol service. The proposed food service with no late hours is compatible with the existing and permitted uses within the area.

5. The operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The project has been conditioned to ensure that the business remains a restaurant and does not become a bar or tavern. Additionally, dancing or live entertainment is not permitted.
6. The existing common trash storage area located approximately 50 feet behind the 191 Riverside Avenue building was remodeled with the shopping center in 2018 and is adequate to accommodate the proposed food service use. It is conveniently located where materials can be deposited and collected and does not impede with parking.

Finding

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

Facts in Support of Finding

1. The existing Garden Shopping Center has adequate public and emergency vehicle access, public services, and utilities that will be maintained with the proposed food service establishment.

2. The site is accessible from both Riverside Avenue and Avon Street.

Finding

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

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The limited hours reduce impacts to surrounding land uses and sufficient parking is available for the food service establishment. 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 food service, eating and drinking establishment serves the surrounding community in a commercial area designed for such uses. The food service including alcohol is provided as a public convenience and is not uncommon in establishments of this type. Additionally, the service of alcohol will provide an economic opportunity for the property owner to maintain a successful business that is compatible with the surrounding community.

3. All owners, managers, and employees selling or serving alcohol will be required to complete a Responsible Beverage Service Certification Program.
SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator 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 Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-048, 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 or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 14th DAY OF APRIL 2022.

Jaime Murillo
Zoning Administrator
EXHIBIT “A”

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).

2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.

4. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.

5. Use Permit No. UP2021-048 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

6. A minimum of one (1) parking space per 50 square feet of net public area shall be provided exclusively for the food service eating and drinking establishment.

7. The net public area shall not exceed 385 square feet based on the eight (8) parking spaces provided unless additional parking is provided on-site based on the minimum required one (1) space per 50 square feet of net public area.

8. The food service eating and drinking establishment shall operate within the hours of 10 a.m. and 9 p.m., Sunday through Thursday and 10 a.m. and 10 p.m., Friday and Saturday.

9. Outdoor dining shall be prohibited unless an amendment to this Use Permit is approved.

10. All catering vehicles related to the operation shall be parked on-site within the Garden Shopping/center parking spaces.

11. This Minor Use Permit may be modified or revoked by the Zoning Administrator 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.
12. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Minor Use Permit or the processing of a new Use Permit.

13. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

14. Prior to the issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in Minor 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 Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

15. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

16. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

17. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

<table>
<thead>
<tr>
<th>Location</th>
<th>Between the hours of 7:00AM and 10:00PM</th>
<th>Between the hours of 10:00PM and 7:00AM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Property</td>
<td>Interior 45dBA</td>
<td>Exterior 55dBA</td>
</tr>
<tr>
<td>Residential Property located within 100 feet of a commercial property</td>
<td>Interior 45dBA</td>
<td>Exterior 60dBA</td>
</tr>
<tr>
<td>Mixed Use Property</td>
<td>Interior 45dBA</td>
<td>Exterior 60dBA</td>
</tr>
<tr>
<td>Commercial Property</td>
<td>N/A</td>
<td>65dBA</td>
</tr>
</tbody>
</table>

18. 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.

19. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday,
and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays, or Holidays.

20. No outside paging system shall be utilized in conjunction with this establishment.

21. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

22. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

23. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.

24. 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).

25. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.

26. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.

27. 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 Newport Beach Municipal Code to require such permits.

28. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
29. 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 Starfish Newport Beach including, but not limited to, Minor Use Permit No. UP2021-048 (PA2021-269). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys’ fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City’s costs, attorneys’ fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

30. The applicant is required to obtain all applicable permits from the City’s Building Division and Fire Department. 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. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

Police Department

31. 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 41 (On Sale Beer and Wine). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Minor Use Permit.

32. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.

33. 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.

34. 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.

35. 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.

36. The 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.

37. Any event or activity staged by an outside promoter or entity, where the applicant, operator, or owner or is 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.

38. “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).

39. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.

40. There shall be no live entertainment or dancing allowed on the premises.

41. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.

42. 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.

43. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.

44. Strict adherence to maximum occupancy limits is required.

45. The Applicant shall maintain a security recording system with a 30-day retention and make those recordings available to police upon request.