



## CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

January 22, 2026  
Agenda Item No. 3

**SUBJECT:** El Cholo Restaurant Outdoor Dining Patio Expansion (PA2025-0042)  
▪ Conditional Use Permit

**SITE LOCATIONS:** 3520 East Coast Highway, 410 Narcissus Avenue, 409 Orchid Avenue,  
3536 East Coast Highway

**APPLICANT:** Andrew Heermann, Laidlaw Schultz Architects

**OWNERS:** Walter C. Boice Family Trust (3520 East Coast Highway)  
Halverson Boice California Properties, LLC (410 Narcissus Avenue)  
Walter C. Boice Family Trust (409 Orchid Avenue)  
John Bradley Pence and Jennifer Anne Robinson (3536 East Coast Highway)

**PLANNER:** Daniel Kopshever, Assistant Planner  
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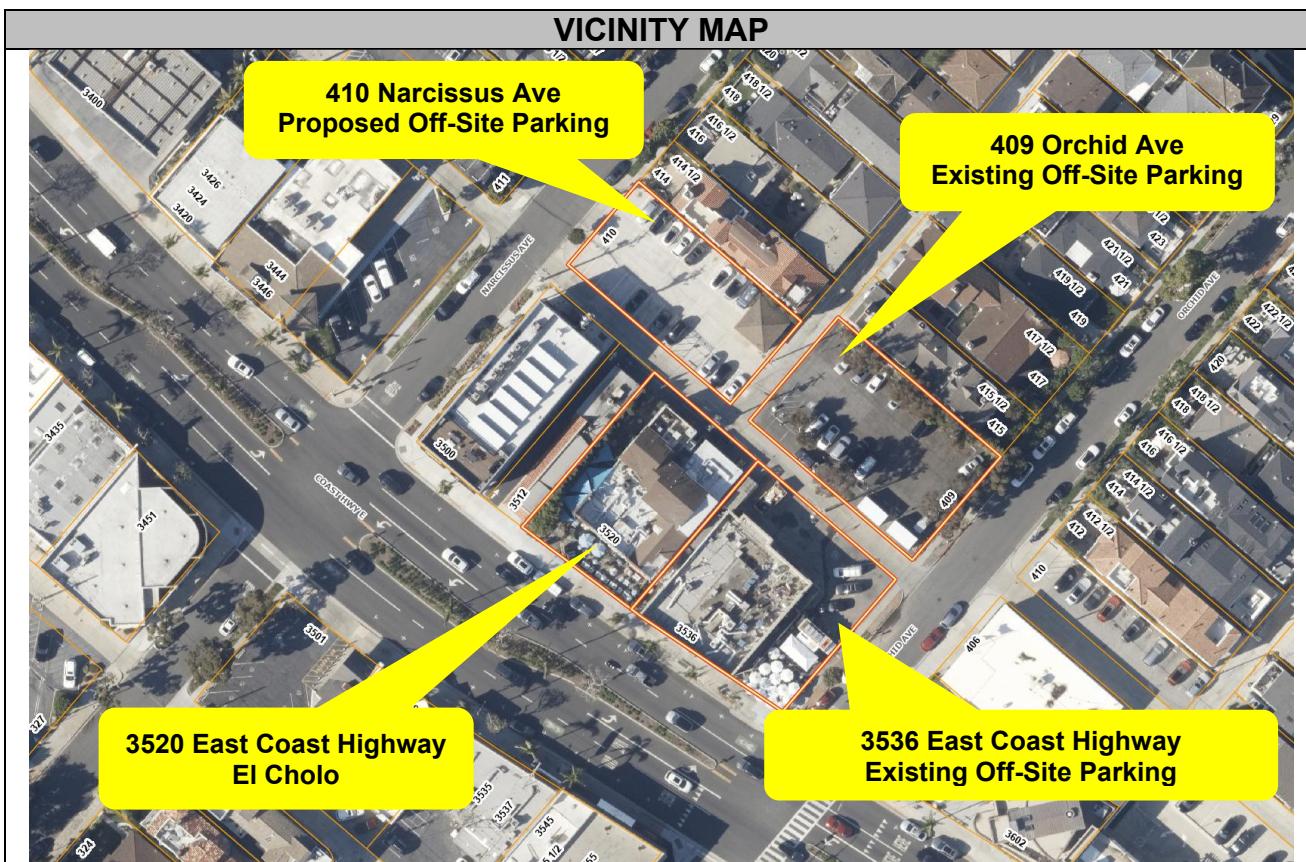
### **PROJECT SUMMARY**

A request to expand the outdoor dining patio for an existing restaurant ("El Cholo") by 975 square feet, resulting in a total outdoor dining area of 1,709 square feet. No changes are proposed to the interior of the 5,347-square-foot restaurant. The proposed hours of operation for the outdoor patio are from 10 a.m. and 11 p.m., daily, consistent with the interior restaurant hours. No live entertainment, dancing, or late hours are proposed, and there are no changes to the existing Type 47 (On-Sale General – Eating Place) California Department of Alcoholic Beverage Control license. To authorize the expanded outdoor dining area, the applicant requests to waive 17 of the 66 required parking spaces and to provide the remaining spaces through a combination of off-site private parking lots located at 409 Orchid Avenue, 410 Narcissus Avenue, and 3536 East Coast Highway. Approval of the project would supersede all previous approvals.

### **RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2026-001, approving the Conditional Use Permit filed as PA2025-0042 (Attachment No. PC 1).

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**GENERAL PLAN****ZONING****3520 East Coast Highway**

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Corridor Commercial (CC)	Commercial Corridor (CC)	El Cholo restaurant
NORTH	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Two-unit residences
EAST, SOUTH, WEST	CC	CC	Restaurants (Rose Bakery, Domino's, etc.) nail salon, retail, offices

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## **INTRODUCTION**

### **Project Setting**

As identified on the preceding page, the property located at 3520 East Coast Highway is on the northern side of East Coast Highway between Narcissus and Orchid Avenues, within the commercial corridor of Corona del Mar. It is developed with a two-story commercial building currently occupied by El Cholo restaurant (hereafter referred to as "El Cholo") that has its primary entrance on East Coast Highway, through its existing outdoor dining patio. Surrounding development includes a mix of commercial uses along East Coast Highway and residentially zoned properties to the north and northeast. The two residentially zoned parcels to the immediate rear of El Cholo and across the alley, 410 Narcissus Avenue and 409 Orchid Avenue, are developed as private surface parking lots. The abutting property to the southeast at 3536 East Coast Highway is developed with a small surface parking lot and a one-story multi-tenant commercial building currently occupied by Del Mar Nails and Spa, Domino's, Scene Framing and Art (retail store), and Rose Bakery Café.

Vehicular access is provided by a 13-foot-wide alley, which can be accessed from either Narcissus Avenue or Orchid Avenue. Pedestrian access is provided from the public sidewalk along East Coast Highway. There are also public bike racks available within the public right-of-way in front of El Cholo.

### **Background and Current Development**

The space occupied by El Cholo has a longstanding history of operating as a restaurant. A chronological summary of the entitlements approved for the property is provided below:

- On June 7, 1979, the Planning Commission approved Use Permit No. UP1908 (UP1908) to authorize a restaurant use and 43 off-site parking spaces.
- In 1980, 1982, 1983, and 1984 the Planning Commission approved amendments to UP1908, documented as UP1908A through UP1908E, which permitted on-sale alcoholic beverages, valet parking, amended hours of operation to allow for lunch service, and added live entertainment, dancing, and an outdoor dining area.
- On June 23, 1982, the Planning Commission approved Variance No. 1100, which waived all off-street parking spaces required by the outdoor dining area approved under the 3<sup>rd</sup> revision of UP1908.
- On April 19, 1984, the Planning Commission approved Variance No. 1111, which waived all off-street parking spaces required by a further expanded outdoor dining area approved under the 4<sup>th</sup> revision of UP1908.
- On September 26, 2014, the Community Development Director approved Staff Approval No. SA2014-018 (PA2014-137), determining that a tenant improvement with a small addition (86 square feet), and operational changes under a new operator, El Cholo Restaurant, were in substantial conformance with UP1908.

- On June 10, 2020, in response to the COVID-19 pandemic, the Community Development Director approved Emergency Temporary Use Permit No. UP2020-030, allowing further expansion of the outdoor dining patio into a driveway area previously used for valet parking. Two one-year extensions of the temporary outdoor dining area were subsequently approved. The current project seeks to permanently permit this area for outdoor dining.

As currently entitled and developed, the interior first floor features an entry space, bar and lounge area with fireplace and 10 small tables for guests, three additional dining rooms, bathrooms, and a back-of-house service area. An interior staircase leads to an office and additional storage areas on the second floor. In total, the 5,347-square-foot interior space provides 154 dining seats and 13 bar seats, and the existing permanent 734-square-foot outdoor dining area provides 93 seats. The 975-square-foot temporarily expanded outdoor dining area provides an additional 68 seats, for a total seating capacity of 328 patrons. The private surface parking lot at 409 Orchid Avenue provides 27 off-site parking spaces for El Cholo and the private surface parking lot for the abutting multi-tenant building provides 13 off-site parking spaces after 5 p.m. when its tenants are no longer operating. Although not formally recognized in previous approvals, El Cholo currently benefits from an additional 22 off-site parking spaces at 410 Narcissus Avenue. The properties are all identified in Figure 1 below.



Figure 1, Oblique aerial image of the project site and off-site parking lots

## Project Description

Given the success of the temporarily expanded outdoor dining area, the applicant is requesting to make the expansion permanent. The expanded area would be similar to the temporarily expanded area, taking over a former driveway area that has been closed to vehicular traffic and is now separated from the public right-of-way by bollards and potted plants. The addition will expand the outdoor dining area by 975 square feet, resulting in a total outdoor dining area of 1,709 square feet.

The project is served by an existing trash enclosure adjacent to the building, which will remain, and a new 75-square-foot trash enclosure is proposed across the alley within the 409 Orchid Avenue parking lot. The new enclosure is a convenient distance from the restaurant, ensuring proper refuse collection and disposal. The new enclosure, as proposed, will comply with Section 20.30.120 (Solid Waste and Recyclable Materials Storage) of the Newport Beach Municipal Code (NBMC). The outdoor dining patio will not require permanent construction; however, a building permit is required to document the expanded outdoor dining area and to show path of travel from parking areas and the public right of way. Figure 2, below, identifies the improvements associated with this project in a yellow highlight.

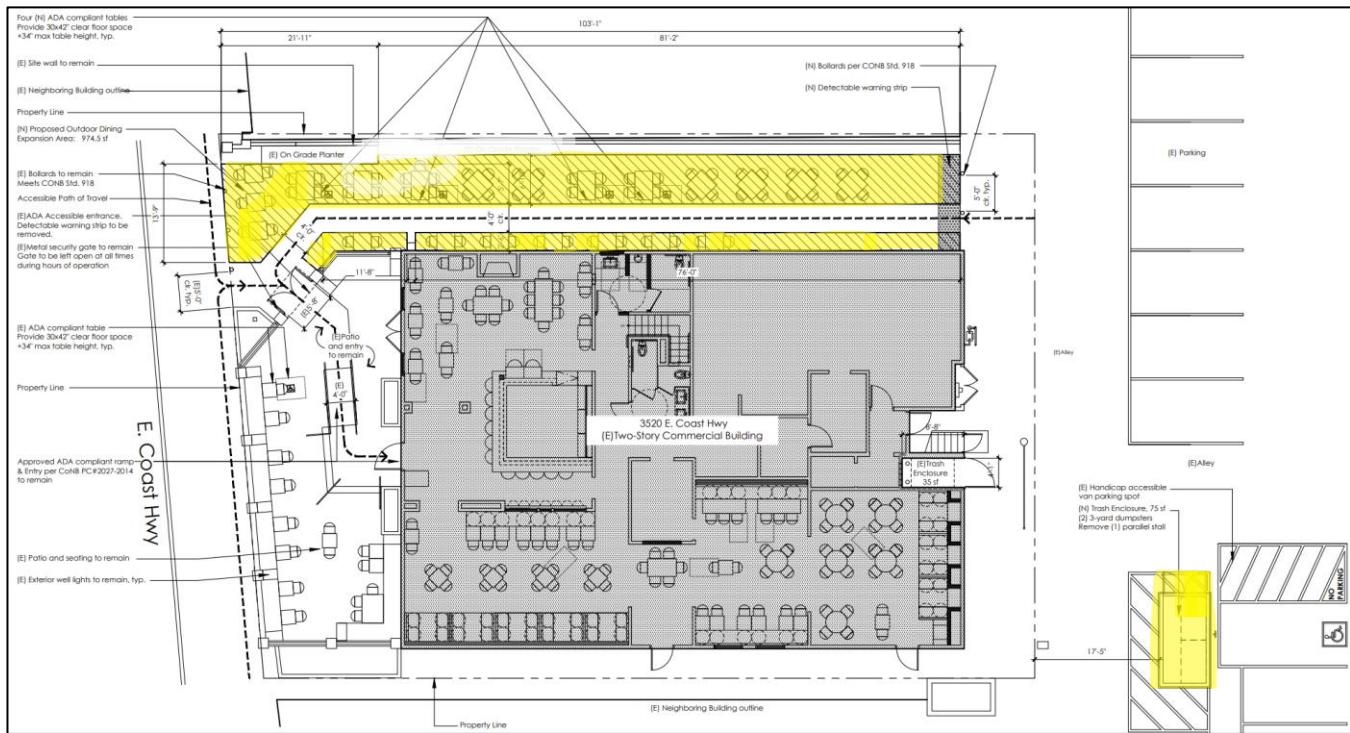


Figure 2, Site plan highlighting patio expansion and new trash enclosure

El Cholo will continue to operate as a full service, sit-down, dining establishment with alcohol service that is ancillary to food service. Although the current entitlement authorizes late hours (after 11 p.m.), live entertainment, and dancing, the applicant proposes to abandon those privileges. Hours of operation for both the patio and the interior of the restaurant are proposed

from 10 a.m. to 11 p.m., daily, and there will be no live entertainment or dancing. To partially offset the increased parking demand from the added outdoor dining area, El Cholo proposes to lease an additional off-site parking lot at 410 Narcissus Avenue, providing an additional 22 parking spaces.

The primary physical and operational characteristics currently allowed and proposed for El Cholo are summarized in Table 1 below.

*Table 1, Comparison of Physical and Operational Characteristics*

Operating Characteristics	Existing Allowance	Proposed
<i>Gross Floor Area</i>	5,347 square feet	No change
<i>Parking Lot Spaces (Off-Site)</i>	409 Orchid – 27 spaces 3536 East Coast Highway – 13 Spaces (after 5 p.m. only)	409 Orchid – 27 spaces 3536 East Coast Highway – 13 Spaces (after 5 p.m. only) 410 Narcissus Avenue – 22 spaces
<i>Interior Dining Area</i>	2,650 square feet, 167 seats	No change
<i>Temporary Outdoor Dining Area</i>	975 square feet, 68 seats	Removed
<i>Permanent Outdoor Dining Area</i>	734 square feet, 93 seats	1,709 square feet, 161 seats
<i>Total Seats</i>	328 seats (including 68 temporary)	328 seats
<i>Hours of Operation</i>	Open until 12:30 a.m. Sunday through Thursday Open until 1:30 a.m. Friday and Saturday	Reduced to 10 a.m. – 11 p.m., Daily
<i>Live Entertainment</i>	Allowed	Prohibited
<i>Dancing</i>	Allowed	Prohibited
<i>Alcohol Beverage Sales</i>	Type 47 (On-Sale General – Eating Place)	No Change

The full project description and project plans are available as Attachment Nos. PC 2 and PC 3, respectively.

While food service uses without late hours may be approved by the Zoning Administrator through a minor use permit, both a reduction of more than 20% of the required off-street parking and the

use of off-site parking require approval of a Conditional Use Permit (CUP) by the Planning Commission. The proposed operation would provide 62 of the 66 required parking spaces after 5 p.m.; however, only 49 spaces are available at all times. Accordingly, reauthorization of the restaurant use with an expanded outdoor patio requires a CUP to permit off-site parking at 409 Orchid Avenue, 410 Narcissus Avenue, and 3536 East Coast Highway, and to allow a waiver of 17 of the 66 required off-street parking spaces (i.e., the “worst-case” scenario).

## **DISCUSSION**

### Analysis

#### *General Plan Consistency*

The property developed with El Cholo is categorized as Corridor Commercial (CC) by the Land Use Element of the General Plan. The CC category is intended to accommodate neighborhood-serving commercial uses that foster pedestrian activity and vibrant streetscapes, including restaurants.

The project is in furtherance of General Plan Policy LU 2.1 (Resident-Serving Land Uses) by providing a gathering place that supports social and recreational activity for residents and visitors. The outdoor dining patio enhances opportunities for social interaction in an open-air environment. The project also furthers General Plan Policy LU 2.4 (Economic Development) by enabling reinvestment in an established business that contributes to the economic vitality of the Corona del Mar commercial corridor.

The project is particularly supportive of General Plan Policy LU 5.3.5 (Pedestrian-Oriented Architecture and Streetscapes), which encourages outdoor seating and the activation of street-facing areas that would otherwise function as gaps or inactive spaces. The patio expansion transforms an underutilized frontage area into an active space with visible pedestrian activity, improving the continuity, interest, and safety of the streetscape.

A full General Plan consistency analysis is available in the draft resolution provided as Attachment No. PC 1.

#### *Zoning Code Consistency*

The project site is zoned Commercial Corridor (CC). Similar to the Land Use categorization of Commercial Corridor (CC), the CC Zoning District is also intended to provide for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Eating and drinking establishments with alcohol service are permitted within the CC zoning district, subject to discretionary review, pursuant to Table 2-5 (Commercial Retail Zoning Districts Permit Requirements) of Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) of the NBMC.

A discussion of the required findings for outdoor dining, alcohol sales, the parking waiver, the use of off-site parking, and the CUP are described under separate sections below.

### *Outdoor Dining Considerations*

The proposed outdoor dining area complies with Section 20.48.090 (Eating and Drinking Establishments) of the NBMC. The patio has operated under temporary approval for several years without documented noise complaints or adverse impacts. Exhibit "A" in Attachment No. PC 1 includes conditions of approval that regulate noise, hours of operation, and alcohol service to ensure ongoing compatibility.

El Cholo is located within an established commercial block and is separated from nearby residential zoning districts by an alley and parking areas. Importantly, the outdoor patio is oriented away from residential properties and buffered by existing structures. The expanded dining area is clearly defined by bollards at both ends and an on-grade planter along the northern property line, while the existing patio is enclosed by a metal security gate, pilasters with exterior light wells, and the building façade. Both patio areas are covered by either fabric canopies or umbrellas. Condition of approval No. 19 regulates noise, No 30. ensures safe alcohol service, and hours of operation are regulated by No. 3. The project eliminates previously approved late hours and live entertainment, reducing potential impacts to nearby residential uses.

The project is not within the public right-of-way and provides appropriate barriers, maintains safe pedestrian circulation, and does not interfere with parking or vehicular access. Furnishings and design elements are compatible with the existing development, and operational controls address noise and loitering. Alcohol service will occur only within the approved outdoor dining area, consistent with Section 20.48.090(B)(1)(a) (Eating and Drinking Establishments) of the NBMC, and the operator is required to comply with all applicable operational standards related to litter removal, security, and staff training. The patio expansion proposes the extension of an existing, permitted outdoor dining area and complies with the operational, design, and review standards of Section 20.48.090 (Eating and Drinking Establishments) of the NBMC.

### *Alcohol Sales Findings*

The restaurant operates with an existing Type 47 (On-Sale General - Eating Place) Alcoholic Beverage Control (ABC) license. The applicant is proposing an expansion of the outdoor dining patio and is not requesting any changes to the existing Type 47 ABC license. To authorize the sale and service of alcoholic beverages, the Planning Commission must first make a finding of consistency with Section 20.48.030 (Alcohol Sales) of the NBMC.

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

The purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is to maintain a healthy environment for residents and businesses by establishing a set of consistent standards for the safe operation of alcohol establishments. The Newport Beach Police Department (NBPD) has reviewed the project and has no objection, subject to the recommended conditions of approval in the draft resolution. The project does not propose a change in ABC license type, and the removal of operational characteristics such as live entertainment, dancing, and late hours is expected to reduce the potential for negative impacts associated with alcohol sales. Alcohol service will continue to be provided for the convenience of customers of the restaurant, and it is not intended to act as a separate use and destination from the restaurant.

The NBPD prepared a Memorandum for the project that includes a Crime and Alcohol Related Statistics Report using the latest available data from 2024, which is provided as Attachment No. PC 5. The data is incorporated into the factors for consideration which are detailed in the draft resolution provided as Attachment No. PC 1. The NBPD Memorandum concluded that there were no concerns and does not anticipate any increase in crime or alcohol-related incidents. The NBPD recommended operational conditions of approval relative to the sale of alcoholic beverages, including but not limited to, prohibiting the restaurant from operating as a bar, tavern, cocktail lounge, or night club and a closing hour of 11 p.m. to ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The NBPD's recommended conditions of approval are included in Exhibit "A" in Attachment No. PC 1.

#### *Required Parking*

Table 3-10 (Off-Street Parking Requirements) in Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC provides a parking requirement for food service uses of one parking space for every 100 square feet of gross floor area and one space for every 150 square feet of outdoor dining area. At 4,277 square feet of gross floor area on the first floor, 1,070 square feet on the second floor, and 1,710 square feet of outdoor dining area, the Project requires 66 parking spaces. Because the project only provides 49 parking spaces prior to 5 p.m., a 17-space (25.75%) parking waiver is required.

#### *Off-Site Parking*

The Project is served by three adjacent off-site parking lots that collectively provide 49 parking spaces prior to 5 p.m. and 62 spaces after 5 p.m. Specifically, the lot at 409 Orchid Avenue provides 27 spaces and the lot at 410 Narcissus Avenue provides 22 spaces, both of which are permanently available to El Cholo for patron and staff parking. An additional 13 spaces at 3536 East Coast Highway are available after 5 p.m. In the draft resolution (Attachment No. PC 1), Condition of Approval Nos. 5 and 6 require all off-site lots to be clearly signed, striped, and maintained to reflect the designated spaces and applicable time restrictions. Condition of Approval No. 7 requires an updated parking agreement or covenant to be recorded, ensuring the long-term availability of these spaces for El Cholo. On-street parking is not counted towards meeting parking requirements and the project does not introduce new traffic conflict points or interrupt pedestrian and bicycle routes.

### *Parking Waiver*

The General Plan Circulation Element acknowledges that Corona del Mar was subdivided prior to the widespread use of automobiles, which resulted in small lot sizes and limited opportunities for parking on private property and has contributed to the area's highly walkable and bikeable residential and commercial character. The restaurant benefits from a high number of walk-in customers and/or rideshare users. A recent review of the parking supply in the commercial corridor area of Corona del Mar has further confirmed there is generally adequate parking throughout Corona del Mar.

To support the waiver, the applicant submitted a Parking Survey (Attachment No. PC 4), showing the number and timing of customer visits, as well as observational counts of the available parking spaces in each of the three parking lots serving the restaurant. In addition, the Survey noted the available on-street parking on Orchid Avenue and East Coast Highway. Counts were taken on Saturday, November 8, 2025, and on Wednesday, November 12, 2025. Counts of available parking spaces were taken every 30 minutes starting at 12 p.m. and ending at 2 p.m. The Parking Survey showed peak parking demand occurring from 12 p.m. to 12:30 p.m., on Wednesday. At no time were the parking lots fully occupied. Six spaces were available in the Narcissus lot and 11 spaces were available in the Orchid lot at 12 p.m. on Wednesday. At 12:30 p.m. on Wednesday, eight spaces were available in the Narcissus lot and four spaces were available in the Orchid lot.

When adding the public on-street parking on Narcissus Avenue, East Coast Highway, and Orchid Avenue, a total of 24 spaces were available in the immediate area on Wednesday at both 12 p.m. and 12:30 p.m. While the on-street parking is not counted to satisfy parking requirements, the regular availability of public parking nearby alleviates concerns of potential parking impacts to the surrounding area. The 13 spaces provided after 5 p.m. at the 3536 East Coast Highway parking lot show an abundance of parking for dinner hours, and the Parking Survey demonstrates that there is sufficient parking available to serve the project even during the peak demand observed during lunch hours.

The City Traffic Engineer has reviewed and accepted the observational counts as a valid indicator of the parking demand and supply. Given the restaurant is already operating with the expanded outdoor dining area, it is unlikely that approval of the project will generate additional parking demand beyond what was already observed.

An additional fact supporting the assertion that the project's parking demand is less than the required number of spaces is that the second floor includes approximately 1,070 square feet of storage and office space that is not accessible to patrons, is not used for customer-serving activities, and does not contribute to peak parking demand. As such, applying the full gross-floor-area parking ratio to this non-customer space results in a higher parking requirement than what the use realistically warrants. Converting the second floor to a dining area would require an amendment to this CUP.

### *Conditional Use Permit Findings*

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits), the Planning Commission must make the following findings for approval of a 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 Municipal Code;*
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, 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.*

As discussed above and demonstrated in the draft resolution (Attachment No. PC 1), staff believes that sufficient facts exist in support of each finding.

El Cholo and its proposed expanded outdoor dining patio will continue to be consistent with the CC land use and zoning designations in that it will provide additional outdoor seating and dining services as a public convenience to visitors as well as residents in the surrounding area without altering the primary use. The expanded dining area will accommodate more customers at a time and encourage the continued success of the business.

El Cholo will remain compatible with the surrounding uses and is separated from nearby residential uses by an alley and surface parking lots. The expanded outdoor patio was originally approved by the Community Development Director on June 10, 2020, through emergency Temporary Use Permit No. UP2020-030 and has since been approved for two, one-year extensions with no complaints received, demonstrating a lack of impacts to the surrounding land uses. The site has operated as a restaurant serving alcohol since 1980. There have been no enforcement cases related to alcoholic beverage sales at this location since El Cholo became the operator in 2014. The restaurant operates with a Type 47 ABC license issued in 2014, and alcohol service will be extended to the expanded outdoor dining area through the existing ABC license. The NBPD has reviewed the request and has no objection, assuming inclusion of the conditions of approval related to alcohol sales. Further, the project will remove late hours, live entertainment, and dancing from the restaurant's operations, which will decrease the potential for conflicts with surrounding uses. Lastly, the project will add an additional 75-square-foot trash enclosure, ensuring adequate capacity for proper refuse collection and disposal.

### Summary and Alternatives

Staff finds that the project is consistent with Title 20 (Planning and Zoning), and the General Plan, as discussed in the analysis above. Staff recommends approval of the project, subject to the conditions of approval provided in the resolution as Exhibit "A." If approved, the project will allow El Cholo to permanently expand its outdoor dining patio by 975 square feet. As part of the approval, the restaurant will abandon its previous approvals to operate late hours, live entertainment, and dancing.

Should the Planning Commission feel the facts are not in evidence of support for the project application, the following alternative options are available to the Planning Commission:

1. The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If the 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; or
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval and a denial action is more appropriate, staff would recommend a continuance to prepare a resolution reflecting this course of action.

### Environmental Review

The project is categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential significant effect on the environment. This exemption allows for the operation, repair, maintenance, and minor alteration of existing buildings. The proposed restaurant is located within an existing building. Only minor alterations are required to accommodate the expanded outdoor dining area.

The exceptions to these categorical exemptions under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, and is not a hazardous waste site, and is not identified as a historical resource.

### 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 NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:



Daniel Kopshever, Assistant Planner

Submitted by:



Jaime Murillo, AICP  
Acting Community Development Director

JP/djk

## **ATTACHMENTS**

- PC 1 Draft Resolution
- PC 2 Project Description
- PC 3 Project Plans
- PC 4 Parking Survey
- PC 5 Police Memorandum

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