

Attachment No. PC 1

Draft Resolution

INTENTIONALLY BLANK PAGE

RESOLUTION NO. PC2025-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SUPERSEDING USE PERMIT NOS UP3235 AND UP3355 AND APPROVING A CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO REPLACE AND EXPAND AN EATING AND DRINKING ESTABLISHMENT INTO AN ADJACENT SUITE, ADD A TYPE 47 (ON-SALE GENERAL – EATING PLACE) ALCOHOL BEVERAGE CONTROL LICENSE, AND WAIVE A PORTION OF THE REQUIRED OFF-STREET PARKING LOCATED AT 3025 AND 3027 EAST COAST HIGHWAY (PA2024-0231)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mark Moshayedi (“Applicant”) with respect to property located at 3025 and 3027 East Coast Highway, and legally described as Tract 323, Block H, Lots 1, 2, 3, 4 and 5 (“Property”).
2. The Applicant requests a conditional use permit (“CUP”) and Coastal Development Permit (“CDP”) to establish a new 2,329-square-foot eating and drinking establishment with a 130-square-foot outdoor dining patio (“Restaurant”) within an existing shopping center by replacing and expanding an existing 1,205-square-foot restaurant, Suite 3025, into an adjacent suite, formerly occupied by a dry cleaner, Suite 3027. The Restaurant will serve alcohol pursuant to a Type 47 (On-Sale General – Eating Place) California Department of Alcohol Beverage Control (“ABC”) License. The Restaurant requests hours of operation from 6:30 a.m. to 10 p.m., daily. No live entertainment, dancing, or late-hour operations (after 11 p.m.) are proposed. The Applicant also requests a waiver of 15 required parking spaces to accommodate the use (“Project”). Approval of the Project will supersede Use Permit Nos. UP3235 and UP3355.
3. Section 20.40.110(B) (Adjustments to Off-Street Parking Requirements) of the Newport Beach Municipal Code (“NBMC”) allows for the reduction of off-street parking requirements with approval of CUP. While food service uses with alcohol service and without late hours are typically allowed subject to approval of a Minor Use Permit (“MUP”) by the Zoning Administrator, Section 20.50.30 (Multiple Permit Applications) of the NBMC requires that multiple applications for the same project be processed concurrently and be reviewed and approved, modified, or denied by the highest review authority, which in this case is the Planning Commission.
4. The Property is categorized as Corridor Commercial (CC) by the General Plan Land Use Element and is located within the Commercial Corridor (CC) Zoning District.
5. The Property is located within the coastal zone. The Coastal Land Use Plan category is Corridor Commercial – 0.0 – 0.75 FAR (CC-B), and the Property is located within the

Commercial Corridor (CC) Coastal Zoning District. The Project includes a reduction of off-street parking requirements to accommodate the Restaurant; therefore, a CDP is required.

6. A public hearing was held on August 21, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project 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. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
2. The Class 1 (Existing Facilities) exemption authorizes minor alterations of existing structures involving negligible or no expansion of use. The Project will improve two existing suites within an existing building to operate as a single restaurant with no increase in floor area and no expansion of use. Therefore, the Class 1 exemption is applicable.

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales

In accordance with Section 20.48.030(C)(3) (Alcohol Sales-Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings 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.*

In finding that the Project is consistent with Section 20.48.030 (Alcohol Sales) of the NBMC, the following criteria must be considered:

1. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 - a. The Property is located in an area the Newport Beach Police Department ("NBPD") has designated as Reporting District 44 ("RD 44"). RD 44 encompasses the entirety of the neighborhood known as Corona del Mar and is abutted to the west by RD 22, to the south by RD 45, to the east by RD 47, and to the north by RD 43.

-
- b. The NBPD 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 ABC. Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. The RD 47 crime count for 2024 is 299, which is 167% over the citywide average of 112 crimes per RD. The crime count for RD 44 is also higher than RD 43, RD 45 and RD 47. The high crime count of RD 44 compared to the adjacent reporting districts is to be expected, as the district includes the commercial properties along East Coast Highway, Corona del Mar’s commercial corridor, and the Corona del Mar State Beach; whereas, the adjacent reporting districts are predominantly residential. RD 44 is found to have undue concentration as it has 20% greater reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City .
 - c. The NBPD has reviewed the Project. Based on the location and operational characteristics, the NBPD has no objections to the Type 47 (On-Sale General – Eating Place) ABC License, subject to appropriate conditions of approval, which are included in Exhibit “A” attached to this resolution.
 - d. Operational conditions of approval recommended by NBPD include, but are not limited to, the requirement to prohibit the Restaurant from operating as a bar, tavern, cocktail lounge, or night club and a closing hour of 10 p.m. as to ensure compatibility with the surrounding uses and minimize alcohol-related impacts.
 2. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 - a. RD 44 was reported to ABC as a high crime area, as compared to other reporting districts in the City. The highest volume crime in this area is larceny and theft. The highest volume arrest in the area is drug-related offenses. DUI, public intoxication, and liquor law violations account for 32% of arrests in RD 44. However, the area is a vibrant commercial corridor, in proximity to Corona del Mar State Beach, and attracts many visitors and tourists. These commercial and public recreation areas result in a higher number of alcohol-related calls for service, crimes, and arrests.
 - b. According to the NBPD memorandum, there were no calls for service to the Property in 2024.
 3. *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.*

- a. The nearest residential properties are located across Iris Avenue; however, the Restaurant is oriented towards the shopping center parking lot and not the residences.
- b. The nearest park is Bayside Park which is located approximately 430 feet southwest of the Restaurant. The nearest church and daycare use is the Community Church Congregational, located approximately 850 feet north of the Property. The nearest school is Harbor View Elementary which is approximately 1,300 feet northeast of the Property. The Project is otherwise not located near other religious facilities, daycare centers, parks, recreational facilities, schools, or other similar uses that attract minors.

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

- a. There are currently two active Type 41 (On-Sale Beer & Wine – Eating Place) ABC Licenses within the shopping center, one for Gina's Pizza and one for La Fogata. La Fogata's existing Type 41 License will be replaced with a Type 47 (On-Sale General – Eating Place) for the new Restaurant.
- b. There are 15 active on-sale ABC Licenses within RD 44, all of which are bona fide eating and drinking establishments and are not defined as bars, lounges, or night clubs by the NBMC. Other than the two active on-sale ABC Licenses on the Property, the next closest on-sale location is The Place restaurant, located approximately 500 feet north of the Project.
- c. There are six off-sale ABC Licenses within RD 44, of which two are located on the Property including a Type 20 (Off-Sale Beer & Wine) for Mother's Market and a Type 21 (Off-Sale General) for CVS.
- d. The Property is within Census Tract 627.02, which has 15 active on-sale ABC Licenses and a population of approximately 4,515 residents. This represents a per capita ratio of one license per every 301 residents. Orange County has a per capita ratio of one license for every 822 residents. Because the Tract exceeds the ratio of on-sale retail licenses to population for the County, the area is deemed to have an undue concentration of alcohol licenses. The NBPD does not anticipate any increase in crime or alcohol-related incidents with the approval of this Project given the limited operational characteristics and early closing hour.
- e. The Restaurant is not anticipated to be detrimental to the community because of the proximity to the sensitive land uses and the existing active ABC Licenses on the Property operating without incident. Additionally, the Restaurant shall be required to comply with all conditions of approval recommended by the NBPD.

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

- a. No objectionable conditions exist presently at the shopping center. Based on ABC records, La Fogata and Gina's Pizza restaurants have operated on the Property with a Type 41 (On-Sale Beer & Wine – Eating Place) ABC License since 2023 and 1985, respectively, have not had any operating issues nor complaints related to alcohol, and have maintained their respective licenses in good standing with ABC.
- b. The Project has been reviewed and conditioned to 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 NBPD relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

Conditional Use Permit

In accordance with Section 20.52.020(F) (Conditional Use Permits - Findings and Decision) of the NBMC, the following findings and facts in support of such findings 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 Property is categorized as Commercial Corridor (CC) by the Land Use Element of the General Plan. Table LU1 (Land Use Plan Categories) of the Land Use Element specifies that the CC category is intended to provide areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.
2. The Project is consistent with the CC categorization because it will enhance the menu offerings and dining options at an existing restaurant and will better serve the surrounding neighborhood.
3. The Project consists of the following General Plan Land Use Element Policies for the implementation of new uses:
 - a. Land Use Policy LU 1.5 (Economic Health): Support the local economy through the identification and development of housing opportunities, as well as adequate commercial, office, medical, industrial, and marine-oriented uses that provide employment and local revenue opportunities to support high-quality community services for residents, businesses, and visitors.

The Project provides a neighborhood-serving restaurant that activates a vacant space and creates employment opportunities which support the local economy and is therefore consistent with Policy LU 1.5.

- b. Land Use Policy LU 2.1 (Resident-Serving Land Uses): Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces.

The Project is located within an existing shopping center in Corona del Mar and will accommodate a new restaurant concept. The restaurant use is intended to complement the existing mix of neighborhood-serving uses within the shopping center while providing additional dining options to residents, workers and visitors to the City and is therefore consistent with Land Use Policy LU 2.1.

- c. Land Use Policy 6.20.1 (Primary Uses) of the Land Use Element aims to accommodate neighborhood-serving uses that complement existing development.

The Restaurant is expected to enhance the neighborhood-serving uses within the shopping center and provide an additional dining option which complements the surrounding residential areas. The Project will reinforce the center's role as a vibrant commercial hub in Corona del Mar and is therefore consistent with Land Use Policy 6.20.1.

- 4. The Property is not a part of a specific plan area.

Finding:

- C. *The use is allowed within the applicable zoning district and complies with all other applicable provisions in the Zoning Code and Municipal Code.*

Facts in Support of Finding:

1. The Property is located in the Commercial Corridor (CC) Zoning District. 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. The Project is for restaurant use and is therefore consistent with the intent of the CC Zoning District.
2. 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, food service uses with no late hours that are located within 500 feet of a residential zoning district are permitted within the CC Zoning District, subject to approval of a MUP. However, because the Project includes a waiver of the required off-street parking, pursuant to Section 20.40.110 (Adjustments to Off-Street parking) of the NBMC, a CUP is required.
3. On May 23, 2023, the City Council adopted Ordinance No. 2023-6, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Commercial Parking*, to amend the food service parking requirements. On June 12, 2025, the California Coastal

Commission (“CCC”) certified Part A of Implementation Plan Amendment No. LCP-5-NPB-24-0004-1 which amended the food service parking requirements in Title 21 to be consistent with Title 20 of the NBMC. On July 22, 2025, the City Council introduced Ordinance No. 2025-13, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting a Local Coastal Program Amendment to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code Related to Commercial Parking* and passed it onto second reading on August 26, 2025. If Ordinance No. 2025-13 is adopted during this second reading, the required parking will be consistent with Title 20.

4. Table 3-10 (Off-Street Parking Requirements) of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC requires one parking space per 100 square feet of gross floor area and one parking space per 150 square feet for outdoor dining areas for Eating and Drinking Establishment uses. Although Section 21.40.040 (Off-Street Parking Spaces Required) of the NBMC requires one parking space 30 to 50 square feet of net public area (“NPA”) for Eating and Drinking Establishments, the parking requirement is anticipated to be updated to match Section 20.40.040. For consistency with the Local Coastal Program (“LCP”) Amendments, the required parking for the Project will be analyzed using the updated code requirements.
5. Based on the anticipated updated parking requirements, the 2,329-square-foot restaurant with 130 square feet of outdoor dining area, requires a total of 25 parking spaces $[(2,329 \text{ sq. ft.} / 100 = 23.26 = 24) + (130 \text{ sq. ft.} / 150 = 0.86 = 1) = 25 \text{ spaces}]$.
6. The existing restaurant within Suite 3025, La Fogata, currently operates pursuant to Use Permit No. UP3235, as amended. Use Permit No. UP3235 authorized a waiver for 21 of the 26 off-street parking spaces required for the restaurant. The vacant suite, Suite 3027, which was formerly a dry cleaner, authorized by Use Permit No. UP3355, is required to provide off-street parking at a rate of one space for every 250 square feet of gross floor area. The vacant suite is 1,124 gross square feet in area and therefore requires five parking spaces. Together, the existing restaurant and the vacant suite have a total parking requirement of 31 spaces. The Project, only requiring 25 parking spaces as described in Fact 5, represents a reduction in the total number of off-street parking spaces required.
7. The Property was originally developed in 1938, prior to current parking requirements and provides a total of 70 surface parking spaces. The Property is therefore considered nonconforming, as it does not provide the minimum number of parking spaces currently required by code. Pursuant to Section 20.38.060 (Nonconforming Parking) of the NBMC, a use may be changed to a new use without providing additional parking if the new use requires no more than one parking space for 250 square feet of gross floor area. If the new use is assigned a higher parking requirement by Table 3-10 (Off-Street Parking Requirements), the new use must provide additional parking equal to the difference between the two uses. In this case, there is a 10-space credit for the expanded, 2,329-square-foot, suite $(2,329 / 250 = 9.3 = 10)$. Therefore the Project requires a waiver of 15 parking spaces $(25 - 10 = 15)$, which is less than the 21-space waiver originally authorized for Suite 3025 by Use Permit No. UP3235.

8. All facts in support of Finding G and H are hereby incorporated by reference.

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 Property is located at the intersection of East Coast Highway and Iris Avenue. It is bounded by two-unit residences to the north, west, and southeast, with commercial properties to the south and east across the East Coast Highway. The Project is within an existing shopping center that consists of two, single-story, multi-tenant buildings and a 70-space shared surface parking lot. The shopping center includes a diverse mix of tenants, including Mother's Market, CVS, Gina's Pizza, La Fogata, Orange Theory Fitness, Jen's Health Bar, and Poppy Bank.
2. La Fogata has operated with a Type 41 (On-Sale Beer & Wine – Eating Place) ABC License since 2023 with no operating issues nor complaints related to alcohol based on ABC records. The NBPd has reviewed the request to replace the Type 41 (Off-Sale General) with a Type 47 (On-Sale General – Eating Place) ABC License and has no objections subject to specific conditions of approval.
3. The NBPd has included Condition of Approval Nos. 36 and 37, which prohibit the Restaurant from operating as a bar, tavern, cocktail lounge or nightclub and prohibits any live entertainment or dancing.
4. Condition of Approval No. 11 establishes allowable hours of operation from 6:30 a.m. to 10 p.m., daily. The proposed hours of operation are similar to the other uses on the Property. The proposed hours are a reduction in operating hours compared to Use Permit No. UP3235 which authorized a closing hour of 11 p.m. on Fridays through Sundays.
5. Although the Restaurant is near residences on Iris Avenue and First Avenue, the entrance generally faces away from the residences and is not expected to negatively impact neighbors to the southwest, west and north. Additionally, there is no outdoor dining proposed.
6. La Fogata and Gina's Pizza restaurants have operated on Property since 1994 and 1975, respectively, with no significant operational issues and the new Restaurant will continue to maintain compatibility with the adjacent residences and businesses, all which serve Corona del Mar residents.

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.*

Facts in Support of Finding:

1. The Property is located within a developed commercial area and is adequately served by existing public services and utilities. Any utilities upgrades required to support the change in use of the vacant space will be determined during the plan check process for the building permit.
2. Existing vehicular and pedestrian access points to the Property from East Coast Highway and Iris Avenue will be maintained, providing adequate public and emergency vehicle access.
3. The Applicant is required to obtain Orange County Health Department approval prior to opening for business, and comply with Building Code to ensure the safety and welfare of customers and employees within the Restaurant.
4. The Building Division and Fire Department have reviewed the Project and have no concerns, subject to the appropriate conditions of approval. Condition of Approval No. 30 requires the Applicant to obtain all applicable permits from the City's Building Division and Fire Department, including a building permit for a change in use and/or change of occupancy. This ensures the proposed tenant layout complies with Building and Fire Codes.

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, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The Project supports the Property Owner in leasing an otherwise vacant space. A restaurant is a common service that can be expected within a neighborhood-serving commercial centers and the Project is not anticipated to endanger, jeopardize, or otherwise constitute a hazard to the public.
2. The Property currently provides a total of 70 on-site parking spaces. The Project also includes Condition of Approval No. 12, which affords the Community Development Director, Public Works Director, or the City Traffic Engineer the ability to require additional parking mitigation measures if parking is determined to be a public nuisance for surrounding properties.

3. The NBPD has reviewed the Project and has no objections. The operational conditions of approval recommended by the NBPD related to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol-related impacts.
4. The Project has been reviewed and includes conditions of approval to help minimize potential conflicts with the surrounding land uses as much as possible. Condition of Approval No. 19 requires the business operator take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties during business hours, if directly related to the patrons of the establishment. Based on the NBMC requirements and the proposed conditions of approval, the Project is not anticipated to be detrimental to the surrounding community.
5. All facts in support of Finding A are hereby incorporated by reference.
6. Fact 6 and 7 in support of Finding C are hereby incorporated by reference.
7. Fact 3 in support of Finding D is hereby incorporated by reference.

Off-Street Parking Reduction

In accordance with Section 20.40.110 (B) (Adjustments to Off-Street Parking Requirements – Reduction of Off-Street Parking) of the NBMC, off-street parking requirements may be reduced with the approval of a CUP in compliance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits). The following findings, and facts in support of such findings, are set forth:

Finding:

- G. The Applicant has provided sufficient data, including a parking study if required by the Director, to indicate that parking demand will be less than the required number of spaces or that other parking is available (e.g., City parking lot located nearby, on-street parking available, greater than normal walk-in trade, mixed-use development);

Facts in Support of Finding:

1. Facts 3, 4, 5, 6 and 7 in support of Finding C are hereby incorporated by reference.
2. Fact 2 in support of Finding F is hereby incorporated by reference.
3. A parking study dated May 29, 2025, was prepared by Trames Solutions Inc. (Study). The Study analyzed the Restaurant with the current parking requirements specified in Section 21.40.040 (Off-Street Spaces Required) of the NBMC, which requires a parking rate of one space per 30 to 50 square feet of net public area (NPA), which would require an assumed total of 28 spaces for the Restaurant and a parking waiver of 19 spaces. However, utilizing the anticipated updated parking requirement, a total of 25 parking spaces and a reduced waiver of 15 spaces are required, as discussed in Fact 5 in Support of Finding C. As such, the Study provides a more conservative analysis of the Project.

4. The Study establishes a parking demand for the Project by providing observational parking counts during typical operations and dry weather conditions on a Thursday and Saturday from 6 a.m. to 10 p.m., at one-hour intervals. The observed peak parking demand occurred at 10 a.m. on a Saturday (March 8, 2025), when 60 of the 70 parking spaces were occupied. The Study considered that the currently vacant space would require five parking spaces, resulting in a projected parking demand of 65 spaces during peak conditions. Because the new Restaurant would require three fewer parking spaces as (based on the 28-space requirement) than the existing restaurant and vacant space (31 spaces combined), the Study concluded that the projected future parking demand, once the Project is implemented, would be 62 spaces ($65 - 3 = 62$). This projected demand results in an eight-space surplus. Therefore, based on the existing parking demand of the shopping center and future parking demand, there is sufficient onsite parking to accommodate the Restaurant.
5. Although on-street and public parking lot spaces are not considered as part of the parking analysis, for informational purposes, the Study provided parking counts around the perimeter of the Property on Iris Avenue, First Avenue, Jasmine Avenue, East Coast Highway, and at the Bayside Drive public parking lot. During the weekend and weekday peak period parking demand of the shopping center, a total of 12 and 61 off-site parking spaces were available nearby.
6. The Study was reviewed and accepted by the City Traffic Engineer.

Finding:

- H. *A parking management plan shall be prepared in compliance with subsection (C) of this section (Parking Management Plan).*

Fact in Support of Finding:

As indicated in Facts 4 in support of Finding G, the Study concludes that on-site parking is adequate to accommodate the Project. However, in compliance with Section 20.40.110 (C) (Adjustment to Off-Street Parking Requirement – Parking Management Plan), a parking management plan has been prepared to mitigate potential impacts associated with a reduction in the number of parking spaces. Employees are encouraged to use alternative forms of transportation such as carpooling, walking, bicycling and ridesharing services. The parking management plan recommendations have been reviewed and accepted by the City Traffic Engineer.

Coastal Development Permit

In accordance with Section 21.52.015(F) (Coastal Development Permits - Findings and Decision) of the NBMC, the following findings, and facts in support of such findings are set forth:

Finding:

- I. Conforms to all applicable sections of the certified Local Coastal Program*

Facts in Support of Finding:

1. The Property is located in the Coastal Zone. Though the Project results in a reduction in total amount of required parking, the Property is nonconforming due to parking and requires a waiver of off-street parking requirements to accommodate the new use; therefore, a CDP is required.
2. Pursuant to Table 21.20-1 (Allowed Uses) of Section 21.20.020 (Commercial Coastal Zoning Districts Land Uses) of the NBMC, food service uses with no late hours are allowed within the Commercial Corridor (CC) Coastal Zoning District.
3. The Project consists of the expansion of an existing permitted restaurant into an adjacent vacant tenant space for a new Restaurant within an established commercial shopping center.
4. Pursuant to Section 21.40.110(D) (Adjustments to Off-Street Parking Requirements – Impact to Coastal Access Prohibited) of the NBMC, the Project is not expected to generate parking spill over into public streets or impact public parking for beach visitors as the existing 70 space parking lot is sufficient to accommodate the projected future demand, as indicated by the Study.
5. The Property is not located within the immediate vicinity of coastal view roads or designated coastal viewpoints as identified in the Coastal Land Use Plan (“CLUP”). The nearest coastal viewpoints are located at Begonia Park and along Ocean Boulevard, approximately 1,800 and 2,000 feet west of the Property, respectively. The nearest coastal roads are Bayview Drive and Ocean Boulevard, approximately 1,800 and 2,000 feet west of the Property, respectively. The Project is not visible from those locations due to the distance and intervening structures and are located closer to the coast than the Project. Therefore, the Project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on public views.
6. All Facts in support of Findings G and H are hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. The Property is not located between the nearest public road and the sea or shoreline. As such, it is not necessary to assess project consistency with the public access and public

recreation policies of Chapter 3 of the Coastal Act. However, the Project expands an existing restaurant into a currently vacant space for a new restaurant. The Project does not result in an intensification of use that would increase demand on public access to the coast or recreational facilities.

2. The Property is not located within the immediate vicinity of coastal access points as identified in the CLUP. The nearest coastal access points are located along Ocean Boulevard, approximately 1,800 to 2,000 feet west of the Property. The Project is located within an existing shopping center and consists of the expansion of the existing restaurant into the adjacent vacant tenant space, which will not impact the existing coastal access points.

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 the Conditional Use Permit and Coastal Development Permit filed as PA2024-0231, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This resolution supersedes Use Permit Nos. UP3235 and UP3355, which upon vesting of the rights authorized by this Conditional Use Permit and Coastal Development Permit, shall become null and void.
4. 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 City Clerk in accordance with the provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. The Property is located in the coastal zone and outside of the California Coastal Commission appeals jurisdiction; therefore, final action taken by the City may not be appealable to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF AUGUST, 2025.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Tristan Harris, Chair

BY: _____
Jonathon Langford, Secretary

EXHIBIT “A”

CONDITIONS OF APPROVAL

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. 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. A material violation of any of those laws in connection with the use may cause the revocation of this Conditional Use Permit and Coastal Development Permit.
4. The Conditional Use Permit and Coastal Development Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 and 21.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
5. This Conditional Use Permit and Coastal Development Permit may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the Property is operated or maintained so as to constitute a public nuisance.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans, require an amendment to this approval or the processing of a new application.
7. 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.
8. This resolution shall supersede Use Permit Nos. UP3235 and UP3355, which upon vesting of the rights authorized by this Conditional Use Permit and Coastal Development Permit, shall become null and void.
9. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) 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. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

-
10. *Prior to the issuance of building permits, a Traffic Fair Share Fee for the change in use from the retail space to the restaurant shall be paid in accordance with the fee effective at the time of payment.*
 11. *The hours of operation for the eating and drinking establishment shall be limited to the hours between 6:30 a.m. to 10 p.m., daily.*
 12. *If in the opinion of the Community Development Director, Public Works Director, or the City Traffic Engineer the Property is generating a greater parking demand than anticipated and is creating a parking nuisance, additional parking mitigation measures may be required.*
 13. *The business operator or owner shall utilize all parking management strategies as established by the parking study dated May 29, 2025, prepared by Trames Solutions Inc.*
 14. *The business operation shall reflect the operational characteristics described in the parking study.*
 15. No outside paging system shall be utilized in conjunction with this establishment.
 16. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
 17. All proposed signs shall comply with the provisions of Chapter 20.42 (Signs) of the NBMC.
 18. The Property 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 Property is excessively illuminated.
 19. The business operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties during business hours, if directly related to the patrons of the establishment.
 20. 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.
 21. 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.

-
22. 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.
 23. 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 (Water and Sewers) of the NBMC, including all future amendments (including Water Quality related requirements).
 24. 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.
 25. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 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. 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.
 27. 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.
 28. 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.
 29. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 **3025 & 3027 East Coast Highway Restaurant including, but not limited to, a Conditional Use Permit and Coastal Development Permit filed as PA2024-0321**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all the City's costs, attorneys'

fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The Applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Building Division

30. *The Applicant shall obtain all applicable permits from the City's Building Division and Fire Department, including a building permit for a change in use and/or change of occupancy. The construction plans must comply with the most recent City-adopted version of the California Building Code.*

Police Department

31. The ABC License shall be limited to a Type 47 (On Sale General).
32. Any substantial change in the ABC License type shall require subsequent review and potential amendment of the Use Permit.
33. The Restaurant operator shall comply with all federal, state, and local laws, and all conditions of the ABC 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 eating and drinking establishment shall close no later than 10 p.m.
36. This Restaurant shall not be permitted to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.
37. Live entertainment and dancing is prohibited.
38. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
39. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
40. The business operator or owner 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.

-
41. Strict adherence to maximum occupancy limits is required.
 42. 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.
 43. 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.

INTENTIONALLY BLANK PAGE