

# **Attachment No. PC 1**

Draft Resolution

INTENTIONALLY BLANK PAGE

## RESOLUTION NO. PC2025-022

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SUPERSEDING USE PERMIT NOS UP1848 AND UP2006 A AND APPROVING A CONDITIONAL USE PERMIT TO REPLACE AND EXPAND AN EATING AND DRINKING ESTABLISHMENT INTO AN ADJACENT SUITE, ADD A TYPE 41 (ON-SALE BEER & WINE – EATING PLACE) ALCOHOL BEVERAGE CONTROL LICENSE, AND WAIVE A PORTION OF THE REQUIRED OFF-STREET PARKING LOCATED AT 3840 EAST COAST HIGHWAY, SUITES A & B (PA2024-0198)**

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

### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Hector Amezcuita (“Applicant”) on behalf of Gary Daichendt (“Owner”) with respect to property located at 3840 East Coast Highway, and legally described as Lot 53 of Block B, Tract no. 673 (“Property”).
2. The Applicant requests a conditional use permit (“CUP”) to establish a new 2,155-square-foot café style eating and drinking establishment (“Restaurant”) by remodeling and expanding an existing restaurant space in Suite B into the adjacent Suite A, previously occupied by a professional office. The Restaurant will serve alcohol pursuant to a Type 41 (On-Sale Beer and Wine – Eating Place) California Department of Alcohol Beverage Control (“ABC”) License and hours of operation will be limited to between 6 a.m. and 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 16 required parking spaces to accommodate the Restaurant. (“Project”). Approval of the Project will supersede Use Permit Nos. UP1848 and UP2006A.
3. Section 20.40.110(B) (Adjustments to Off-Street Parking Requirements) of the Newport Beach Municipal Code (“NBMC”) allows for a reduction in required off-street parking through the approval of a CUP by the Planning Commission. 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 not located within the coastal zone.

6. A public hearing was held on October 23, 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 (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.
2. The Class 1 (Existing Facilities) exemption authorizes minor alterations of existing structures with negligible or no expansion of use. The Project will remodel two suites within an existing building to create a single restaurant space with no increase to the overall floor area of the building. While the Project increases the amount of area used for dining, the additional capacity is a negligible expansion of use. Therefore, the Class 1 exemption is applicable.
3. The exceptions to this categorical exemption 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, is not a hazardous waste site, and is not identified as a historical resource.

## 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 RD 48, and to the north by RD 43 and RD 39.

- 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 44 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 all of the properties within 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 41 (On-Sale Beer and Wine– 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 nightclub 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 and drug related calls for service, crimes, and arrests.
- b. According to the NBPD memorandum, there was one call for service to the Property in 2024, however no crimes, citations or arrests were reported.

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 directly to the north of the Property access an alley; however, the Restaurant is oriented towards the East Coast Highway and not the residences. Additionally, the Project has been conditioned to prohibit any outdoor dining operations on the roof of the building.
  - b. The nearest parks are Upper Buck Gully located approximately 1500 feet northeast of the Restaurant and Inspiration Point located approximately 1,600 feet west of the Restaurant. The nearest recreational facility is the Oasis Center, located approximately 2,100 feet north of the Restaurant. The nearest church and daycare use is the Community Church Congregational, located approximately 3,000 feet northwest of the Property. The nearest school is Harbor View Elementary which is approximately 3,500 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.
  - c. The Restaurant is not anticipated to be detrimental to the community because of the large distances to sensitive land uses. Additionally, the Restaurant shall be required to comply with all conditions of approval recommended by the NBPD.
4. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
- a. There are currently no active ABC Licenses on the Property.
  - 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. The closest on-sale location is Five Crowns restaurant, located approximately 200 feet west of the Property, at 3801 East Coast Highway. The next closest on-sale location is Mama D's Italian Kitchen restaurant, located approximately 350 feet southwest of the Property, at 3732 East Coast Highway. All other on-sale ABC Licenses in RD 44 are also located along East Coast Highway within Corona Del Mar's commercial corridor.
  - c. There are six off-sale ABC Licenses within RD 44. The closest off-sale location is Newport Wine and Spirits located approximately 630 feet west of the Restaurant, at 3537 East Coast Highway. All other off-sale ABC Licenses in RD 44 are also located along East Coast Highway within Corona Del Mar's commercial corridor.
  - 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 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 condition of approval for a closing hour of 10 p.m.

5. *Whether or not the proposed amendment will resolve any current objectionable conditions.*
  - a. No objectionable conditions currently exist at the Property. Based on ABC records, the previous restaurant operated on the Property with a Type 41 (On-Sale Beer & Wine – Eating Place) ABC License since 1981, did not have any operating issues nor complaints related to alcohol and maintained their license in good standing with ABC. The restaurant remained in operation until 2023. The operating history within suggests that a restaurant with a Type 41 ABC License suggesting the Property is both suitable and appropriate for continued use as a restaurant and it is not expected to create any future objectionable conditions.
  - 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 Restaurant. 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. The Project is consistent with the CC categorization because it will provide an additional small scale neighborhood dining option for Corona del Mar residents.
2. The Project is in furtherance of the following General Plan Land Use Element Policies for the implementation of new uses:
  - a. **Land Use Policy LU 1.1 (Unique Environment):** Maintain and enhance the different villages, neighborhoods, business districts, and harbor that define Newport

Beach through neighborhood preservation. Locate and design development in a way that reflects Newport Beach's topography and, architectural diversity while emphasizing the City's coastal orientation, including public views.

*The Project is located within the Corona del Mar which is primarily a residential neighborhood with the exception of the commercial properties along East Coast Highway, bounded by Avocado Avenue and Hazel Drive. This portion of East Coast Highway forms the Corona del Mar commercial corridor which serves as a resident and visitor serving commercial district. The commercial corridor is developed with a diverse mix of commercial uses and building types that provides for an appropriate scale which fosters pedestrian activity and creates the unique village known as the Corona del Mar commercial corridor. The Project is to renovate an aging and vacant commercial building for a Restaurant that is expected to support the dense residential community in this area and enhance pedestrian activity. The commercial building will include a coastal contemporary architecture through its use of white stucco, smooth plaster, wood paneling accents, and large windows which result in a modern coastal feel that fosters pedestrian interest.*

- b. **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 establishes a neighborhood-serving restaurant by combining and reactivating two currently vacant suites which create employment opportunities, generates local revenue and enhances the exterior of an aging building.*

- c. **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 vacant building along East Coast Highway that will accommodate a new restaurant concept. The small-scale Restaurant is expected to enhance the neighborhood-serving uses within Corona del Mar's commercial corridor by providing an additional dining option which complements the surrounding residential community. The Restaurant's customer base is expected to primarily consist of local Corona del Mar residents who can conveniently access the Restaurant as pedestrians due to the walkable nature of the area. The Project will reinforce Corona del Mar's commercial corridor as a vibrant resident serving commercial hub in the City.*

- d. **Land Use Policy LU 5.3.5 (Pedestrian-Oriented Architecture and Streetscapes):** Require that buildings located in pedestrian-oriented commercial and mixed-use districts (other than the Newport Center and Airport Area, which are guided by Goals 6.14 and 6.15, respectively, specific to those areas) be designed to define the public

realm, activate sidewalks and pedestrian paths, and provide “eyes on the street” in accordance with the following principles: Location of buildings along the street frontage sidewalk, to visually form a continuous or semi-continuous wall with buildings on adjacent parcels inclusion of retail uses characterized by a high level of customer activity on the ground floor; to insure successful retail-type operations, provide for transparency, elevation of the first floor at or transitioning to the sidewalk, floor-to-floor height, depth, deliveries, and trash storage and collection; articulation and modulation of street-facing elevations to promote interest and character; inclusion of outdoor seating or other amenities that extend interior uses to the sidewalk, where feasible; and minimization of driveways that interrupt the continuity of street facing building elevations, prioritizing their location to side streets and alleys where feasible

*See fact 2(a) in support of Finding B above.*

- e. **Land Use Policy LU 5.6.1 (Compatible Development):** Require that buildings and properties be designed to ensure compatibility within and as interfaces between neighborhoods, districts, and corridors

*The Project renovates an existing vacant and aging building within the Corona del Mar commercial corridor for Restaurant use, introducing a contemporary coastal architectural style that will complement and enhance the character of the surrounding commercial development. While the Property abuts residential properties to the rear, along Hazel Drive, the majority of activity will occur at the front of the Restaurant, along East Coast Highway. Additionally, while the Property includes a rooftop parking lot adjacent to a residence across an alley, the Project has been conditioned to require employees to park in the parking lot which will limit vehicular and pedestrian activity in both the alley and rooftop parking lot. The Project has also been conditioned to prohibit any outdoor dining in the parking lot, further limiting rooftop activity and noise.*

- f. **Land Use Element Policy LU 5.6.2 (Form and Environment):** Require that new and renovated buildings be designed to avoid the use of styles, colors, and materials that unusually impact the design character and quality of their location such as abrupt changes in scale, building form, architectural style, and the use of surface materials that raise local temperatures, result in glare and excessive illumination of adjoining properties and open spaces, or adversely modify wind patterns

*See fact 2(e) in support of Finding B above.*

- g. **Land Use Policy 6.20.1 (Primary Uses):** Accommodate neighborhood-serving uses that complement existing development.

*See fact 2(c) in support of Finding B above.*

- 3. 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 alcohol sales and without late hours (past 11 p.m.) 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 request to waive a portion of the required off-street parking a CUP is required pursuant to Section 20.40.110 (Adjustments to Off-Street parking) of the NBMC.
3. Table 2-7 (Development Standards for Commercial Retail Zoning Districts) of Section 20.20.030 (Commercial Zoning Districts General Development Standards) of the NBMC limits the square footage of properties within the CC District to a Floor Area Ratio (FAR) as specified in the Zoning Map, which is 0.75 in this case. The Restaurant will occupy the entire 2,155-square-foot building with a 0.64 FAR and does not propose an increase in floor area. Therefore, the Project complies with the maximum FAR requirement.
4. Table 2-7 also limits heights to 32 feet for flat roofs and 37 feet for sloping roofs with a minimum 3/12 pitch for properties within the CC District. The Project proposes an increase in height to approximately 27 feet to accommodate an accessible lift for access from the rooftop parking lot to the Restaurant. Therefore, the Project complies with the maximum height limit of the CC District.
5. The Property was originally developed in 1978, pursuant to Use Permit No. UP 1848 ("UP1848") which authorized the construction of an approximately 2,000-square-foot commercial building with an eight-space rooftop parking lot. At that time, the building met parking requirements, as it was designed for two office suites, each requiring one parking space per 250 square feet of gross floor area (GFA), resulting in a total of eight required parking spaces. On August 24, 1981, the Planning Commission approved Use Permit No. 2006 ("UP2006") which authorized the establishment of a 1,083-square-foot restaurant with 315 square feet of net public area ("NPA") and alcohol sales within Suite B. At the time, restaurants required one parking space per 30 to 50 square feet of NPA, depending on operational characteristics. UP2006 required one space per 40 square feet of NPA, resulting in an eight-space requirement ( $315 \text{ sq. ft. NPA} / 40 = 7.8$ , rounded up). Because the Property only provided eight parking spaces, UP2006 limited the restaurant's hours of operation from 5 p.m. to 11 p.m. on weekdays and 12 p.m. to 11 p.m. on weekends to offset the parking demand of the adjacent professional office in Suite A, which used the

same onsite spaces. UP2006 also required restaurant employees to park onsite and prohibited them from parking on the street, to preserve street parking for short-term customer use, resulting in more public parking availability. On May 24, 1982, the City Council approved an amendment to UP2006 to allow additional weekday hours of operation from 12 p.m. to 1:30 p.m. In 1996, the restaurant was authorized to increase its total square footage by approximately 100 square feet for back of house operations by reallocating space from the adjacent suite resulting in a 1,186-square-foot restaurant and an 836-square-foot office.

6. On May 23, 2023, the City Council adopted Ordinance No. 2023-6 which updated commercial parking requirements in Title 20 (Planning and Zoning) of the NBMC, including those for restaurants. The new standard requires one parking space per 100 square feet of GFA for restaurants. As a result, the restaurant's parking requirement increased from eight to 12 spaces ( $1,186 \text{ sq. ft. GFA} / 100 = 11.8$ , rounded up). The adjacent 836-square-foot office suite required four parking spaces ( $836 \text{ sq. ft. GFA} / 250 = 3.3$ , rounded up), for a total parking requirement 16 spaces ( $12 + 4 = 16$ ). This resulted in an eight-space deficit based on the existing eight-space rooftop parking lot. Pursuant to Section 20.38.060 (Nonconforming Parking) of the NBMC, the Property became nonconforming due to parking, as it does not provide the minimum number of parking spaces currently required by the NBMC.
7. 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 GFA of a restaurant area. The proposed 2,155-square-foot Restaurant requires a total of 22 parking spaces ( $2,155 \text{ sq. ft.} / 100 = 21.55$ , rounded up).
8. To comply with the Americans with Disabilities Act of 1990 ("ADA") and the City's parking lot standards, the rooftop parking lot will be reconfigured from eight to six spaces, consisting of one accessible stall and five widened standard stalls as a result of the Project. This results in a 16-space parking deficit ( $22 \text{ required} - 6 \text{ proposed} = 16 \text{ space deficit}$ ). Therefore, the Applicant requests a waiver of 16 parking spaces to accommodate the Restaurant.
9. 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 in Corona del Mar's commercial corridor near the intersection of East Coast Highway and Hazel Drive. It is bounded by single-unit residences to the north and multi-tenant commercial properties along East Coast Highway. The Property is developed with a 2,155-square-foot single-story commercial building with a rooftop parking lot, accessed through Hazel Drive via an alley. Corona del Mar's commercial

corridor is developed with commercial and mixed-use buildings including restaurant retail, offices, and service uses. The Project is for a small-scale Restaurant which is expected to be compatible with the adjacent commercial uses.

2. Due to the dense character of Corona del Mar, the Restaurant's primary customer base is expected to consist of local residents and existing visitors. Therefore, the Project is not anticipated to generate additional pedestrian or vehicular traffic beyond the levels already experienced within the commercial corridor.
3. The previous restaurant operated with a Type 41 (On-Sale Beer & Wine – Eating Place) ABC License since 1981 with no operating issues nor complaints related to alcohol based on ABC records. The NBPD has reviewed the request for the Type 41 (On-Sale Beer & Wine) ABC License and has no objections subject to specific conditions of approval. The operating history within suggests that a restaurant with a Type 41 (On-Sale Beer and Wine – Eating Place) ABC License is not expected to create any future objectionable conditions
4. The NBPD has included conditions of approval nos. 49 and 52 which prohibit the Restaurant from operating as a bar, tavern, cocktail lounge or nightclub and prohibits any live entertainment or dancing. These operational conditions ensure that the alcohol sales are ancillary to the operation of the Restaurant.
5. While the Applicant requests hours of operation from 6 a.m. to 8 p.m., condition of approval No. 10 establishes allowable hours of operation from 6 a.m. to 10 p.m., daily to provide flexibility of future operational needs. The conditioned hours of operation are similar to the other uses in the area. The proposed hours are a reduction in operating hours compared to UP2006 which authorized a closing time of 11 p.m., daily.
6. Although the Restaurant is near residences on Hazel Drive, the entrance faces away from the residences and is not expected to negatively impact neighbors. Additionally, condition of approval no. 15 prohibits any outdoor dining on the rooftop parking lot, which ensures that the Restaurant will maintain compatible with the adjacent residences on Hazel Drive.
7. A restaurant operated on Property from 1981 to 2023, with no significant operational issues and the new Restaurant is anticipated to maintain compatibility with the adjacent residences and businesses within Corona del Mar.

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. Minor upgrades required to support the change

in use of the vacant suite will be determined during the building permit plan check process.

2. Vehicular access to the Property will continue to be provided via the curb cut along Hazel Drive, which connects to the 10-foot-wide alley at the rear of the Property, ensuring adequate public and emergency vehicle access. Pedestrian access to the Property will be maintained along East Coast Highway and enhanced by the installation of an accessible lift from the rooftop parking lot to the Restaurant's frontage.
3. Table 3-5 (Nonresidential Structures Minimum Storage Areas Required) of Section 20.30.120 (Solid Waste and Recyclable Material) of the NBMC requires that commercial buildings with up to 5,000 square feet of floor area provide a minimum of 32 square feet of onsite enclosed refuse and recyclable material storage areas. The Project will maintain an approximately 100-square-foot existing trash enclosure located on the rooftop parking lot. Therefore, the Project complies with the minimum refuse and recyclable materials storage area requirement.
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. Additionally, the Applicant is required to obtain Orange County Health Department approval prior to opening for business. This ensures that the proposed tenant layout and operations protect the safety and welfare of both customers and employees within the Restaurant.

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 building. A restaurant is a common occurring establishment within Corona del Mar's commercial corridor and the Project is not anticipated to endanger, jeopardize, or otherwise constitute a hazard to the public.
2. The Project also includes Condition of Approval No. 11, 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. 20 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. All facts in support of Finding G and H are 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. Based on the parking requirements for restaurants in Title 20 (Planning and Zoning) of the NBMC, the Restaurant requires 22 parking spaces, however, only six parking spaces and six bicycle spaces can be provided.
2. A parking study dated August 8, 2025, was prepared by LSA, Inc. ("Study"). The Study provides a variety of factors to support that the property can accommodate the small-scale Restaurant.
3. The Study indicates that the proposed café style Restaurant is expected to have a peak parking demand before 12 p.m. Based on the existing restaurant uses in this area with limited parking, the restaurant's peak parking demand is expected to be offset with that of Gallo's Italian Deli which peaks at 12 p.m. and with that of Mama D's Italian Kitchen which peaks in the evening as it is only open after 4 p.m.
4. The City of Newport Beach Circulation Element of the General Plan 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. While the NBMC requires 22 parking spaces for this use, the Project can only

accommodate six appropriately designed parking spaces onsite. However, the Study acknowledges that due to a high volume of pedestrians and cyclists in Corona del Mar, parking demand for the Project is expected to be lower than that of a restaurant in a typical suburban, car-dependent setting.

5. To further support the use of alternative transportation to the Property and within Corona del Mar, the Project proposes six bicycle parking spaces within the rooftop parking lot.
6. Corona del Mar also benefits from other forms of transportation, including transit. The area is served by several Orange County Transportation Authority ("OCTA") bus stops along Coast Highway, three of which are located within 200 feet of the Property.
7. Although on-street and public parking lot spaces are not considered as part of the parking analysis, for informational purposes, the Study referenced parking counts around the vicinity including on Hazel Drive and East Coast Highway. There are a total of 18 parking spaces within 200 feet of the Property on Coast Highway and Hazel Drive. During the weekday and weekend peak period parking demand of the Corona del Mar commercial corridor, a total of five and nine off-site parking spaces were available.
8. Condition of approval no. 45 requires that all Restaurant employees park onsite and prohibits employees from parking on the street, preserving nearby short-term parking for customers. Given the limited availability of onsite parking, condition no. 45 ensures that on-street parking spaces remain available for short-term customer use, while long-term employee parking remains on the Property, which results in more public parking availability.
9. While the Study shows that onsite parking is limited, several factors including: (1) the Restaurant's projected earlier peak parking demand, (2) the dense residential and commercial context of Corona del Mar, (3) the high volume of pedestrian and cyclists in the area, (4) the Project's installation of six bicycle parking spaces, and (4) nearby OCTA bus stops along East Coast Highway, supports that the Property can accommodate the small-scale Restaurant.
10. The Study was reviewed and accepted by the City Traffic Engineer
11. Fact 2 in support of Finding D is hereby incorporated by reference.
12. Fact 2 in support of Finding F is hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. 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 any potential impacts associated with a reduction in the number of parking spaces. Employees are encouraged to use alternative forms of transportation such as bicycling, walking, carpooling, public transit, or ridesharing. If employees do drive personal vehicles, they are required to park onsite and prohibited from parking in the public right-of-way. These parking management recommendations have been included in condition of approval nos. 12 and 45, respectively, and would constitute a parking management plan.
2. The parking management recommendations have been reviewed and accepted by the City Traffic Engineer.

#### 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 filed as PA2024-0198, subject to the conditions set forth in Exhibit “A,” which is attached hereto and incorporated by reference.
7. This resolution supersedes Use Permit Nos. UP1848 and UP2006A which upon vesting of the rights authorized by this Conditional Use Permit, shall become null and void.
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 City Clerk in accordance with the provisions of Chapter 20.64 (Appeals) of the NBMC.

#### **PASSED, APPROVED, AND ADOPTED THIS 23RD DAY OF OCTOBER, 2025.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Tristan Harris, Chair

BY: \_\_\_\_\_  
Jonathon Langford, Secretary

## EXHIBIT “A”

### CONDITIONS OF APPROVAL

*(Project-specific conditions are in italics)*

#### **PLANNING DIVISION**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. 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.
4. The Conditional Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
5. This Conditional Use 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 modification to the approved plans shall require review by the Planning Division. If changes are determined to be significant, an amendment to or the processing of a new Conditional Use Permit may be required.
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. 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.
9. *Prior to the issuance of a building permit, a Traffic Fair Share Fee for the change in use from the office space to the restaurant shall be paid in accordance with the fee effective at the time of payment.*

- 
10. *The hours of operation for the restaurant shall be limited to between 6 a.m. and 10 p.m., daily.*
  11. *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.*
  12. *The business operator or owner shall encourage restaurant employees to use alternative forms of transportation, including but not limited to bicycling, walking, carpooling, public transit, or ridesharing.*
  13. *The business operation shall reflect the operational characteristics described in the parking study.*
  14. *Employees of the restaurant shall not use the alley as a break or smoking area.*
  15. *The Restaurant shall be prohibited from having any outdoor dining that is located on the rooftop parking lot.*
  16. No outside paging system shall be utilized in conjunction with this establishment.
  17. 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.
  18. All proposed signs shall comply with the provisions of Chapter 20.42 (Signs) of the NBMC.
  19. 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.
  20. 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.
  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 Applicant and Owners 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 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Conditional 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 and Owner 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 **3840 East Coast Highway Restaurant including, but not limited to, a Conditional Use Permit filed as PA2024-0198**. 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 and Owner 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 and Owner 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.*
31. *The building analysis such as allowable area, height and story shall comply with Chapter 5 of the California Building Code (CBC).*
32. *Plumbing fixtures shall comply with Table 422.1 of the California Plumbing Code (CPC).*
33. *In non-sprinklered buildings, existing from a suite or floor shall be separated by a distance not less than half of the diagonal distance of the suite or floor per Section 1007.1.1 of the CBC.*
34. *An accessible path of travel from the public right-of-way and rooftop parking lot to the tenant space shall be required.*
35. *An accessible lift shall comply with Section 206.7 and Section 410 of Chapter 11B of the CBC.*

### **Fire Department**

36. *Prior to the issuance of a building permit, the occupant load for an A-2 occupancy shall be provided.*
37. *A fixed suppression system shall be listed as a differed submittal.*
38. *Prior to the issuance of a building permit, a means of egress analysis shall be provided.*
39. *A National Fire Protection Association (NFPA) 13 fire sprinkler system shall be required.*
40. *A Fire extinguisher shall be installed in accordance with Chapter 9 of the California Fire Code (CFC).*
41. *Fire alarm monitoring shall be required for the fire sprinkler system.*

### **Public Works Department – Engineering**

42. *A new sewer clean out shall be installed on the existing sewer lateral per City Standard 406.*
43. *The parking layout shall comply with City Standard 805.*

- 
44. *The existing parking lot light shall be relocated so that it does not encroach more than one square foot into the required dimensions of the parking space.*

**Public Works Department – Transportation**

45. *All restaurant employees shall be required to park within the onsite rooftop parking lot and shall be prohibited from parking within the public right-of-way.*

**Police Department**

46. The ABC license shall be limited to a Type 41 (On-Sale Beer and Wine – Eating Place). Any substantial change in the ABC License type shall require subsequent review and potential amendment of the Conditional Use Permit.
47. 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.
48. The eating and drinking establishment shall close no later than 8 p.m.
49. This Restaurant shall be prohibited from operating as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.
50. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
51. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
52. Live entertainment and dancing is prohibited as defined by the NBMC.
53. 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.
54. Strict adherence to maximum occupancy limits is required.
55. 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.

- 
56. 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