

# **Attachment No. PC 1**

Draft Resolution

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## RESOLUTION NO. PC2026-011

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SUPERSEDING USE PERMIT NO. UP2008-006 AND APPROVING A CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW A RESTAURANT WITH A TYPE 41 (ON-SALE BEER AND WINE – EATING PLACE) ALCOHOLIC BEVERAGE CONTROL LICENSE AND WAIVE A PORTION OF THE REQUIRED OFF-STREET PARKING FOR THE PROPERTY LOCATED AT 3333 EAST COAST HIGHWAY (PA2025-0152)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jason Yamaguchi of JayPop LLC (“Applicant”), with respect to the property located at 3333 East Coast Highway, and legally described as Lot 3 of Block X of Tract No. 323, as per map filed in Book 14, Pages 40 and 41 of Miscellaneous Maps, in the office of the County Recorder in the County of Orange, California (“Property”).
2. The Property is developed with a single-story, three-unit commercial building (3331 – 3337 East Coast Highway) with the primary elevation and entrances facing East Coast Highway. The Property does not have any on-site parking and is nonconforming to current City parking requirements.
3. The Property has access to the private off-street parking lot directly south of the Property at 329 Marigold Avenue (“Marigold Lot”). The Marigold Lot is a standalone use, not tied to any business or property as code required parking, and is available solely for the convenience of customers for the adjacent businesses.
4. The existing restaurant (Konpa Nikkei) currently operates as a take-out service – fast casual eating and drinking establishment pursuant to Minor Use Permit No. UP2008-048 (PA2008-048). The Applicant requests approval of a conditional use permit (“CUP”) and coastal development permit (“CDP”) to operate a full-service restaurant (“Restaurant”) with a Type 41 (On-Sale Beer and Wine – Eating Place) California Department of Alcoholic Beverage Control (“ABC”) license. The Restaurant currently operates with 700 square feet of interior area and no outdoor dining area. The Applicant does not propose any physical modifications to the Restaurant space. The proposed hours of operation are 11 a.m. to 10 p.m., daily. The applicant is not proposing late hours (after 11 p.m.), live entertainment, or dancing. Also included is a request to waive the required parking related to upgrading the restaurant from take-out service to full service. Since the property is within the Coastal Zone and the applicant is proposing adjustments to the required off-street parking, a coastal development permit is also required (“Project”). Approval of the Project would supersede Use Permit No. UP2008-006 (PA2008-048).

5. The Property is categorized as Corridor Commercial (CC) by the Land Use Element of the General Plan and is located within the Commercial Corridor (CC) Zoning District.
6. The Property is located within the coastal zone. The Coastal Land Use Plan category is B Corridor Commercial (CC-B) (0.0 – 0.75 FAR) and is located in the Commercial Corridor (CC) Coastal Zoning District.
7. A public hearing was held on April 2, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapters 20.62 and 21.62 (Public Hearings) of the Newport Beach Municipal Code (“NBMC”). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 (Existing Facilities) exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The Project involves the continued operation of an existing commercial and restaurant space with the addition of a Type 41 (On-Sale Beer and Wine – Eating Place) ABC license to allow alcohol sales and waive a portion of the parking requirement. No physical alterations or expansion of the use are proposed. As such, the Project and its parking waiver are not expected to have a significant environmental impact on the surrounding area.
3. The exceptions to these categorical exemptions under Section 15300.2 of the CEQA guidelines are not applicable. The Project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, and is not a hazardous waste site, and is not identified as a historical resource.

## SECTION 3. REQUIRED FINDINGS.

### ***Alcohol Sales***

In accordance with Section 20.48.030(C)(3) (Alcohol Sales – Permit Requirements) of the NBMC, the findings and facts in support of such findings are set forth as follows:

Finding:

- A. *The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales).*

Facts in Support of Finding:

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 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 Newport Beach Police Department (“NBPD”) is required to report offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft (all Part I crimes), combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to ABC. These figures make up the “Crime Count.” RD 44’s Crime Count for 2024 is 299, which is 167% over the citywide crime count average of 112. RD 44 is considered a high crime area compared to other reporting districts. The area has a greater number of reported crimes by 20% compared to the average number of reported crimes within the City. Therefore, the area is found to have undue concentration. In comparison, neighboring RD 45 is 82% below the City-wide average, RD 39 (Fashion Island) is 393% above the City-wide average, and RD 47 is (35%) below the City-wide average. Therefore, RD 44 has a higher crime count than RD 45 and RD 47, and a lower crime count than RD 39.
  - c. The high crime count of RD 44 compared to the adjacent reporting districts is to be expected as the district includes all the properties within Corona del Mar’s commercial corridor and the Corona del Mar State Beach; whereas, the adjacent reporting districts are predominantly residential with the exception of RD 39.
  - d. The NBPD has reviewed the proposed use. Based on the location, operational characteristics, and closing hours, the NBPD has no objection to the Project, subject to appropriate conditions of approval, which are included in Exhibit “A” attached hereto and incorporated into this resolution by reference.
2. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
  - a. Due to the higher concentration of commercial land uses, RD 44 is reported to ABC as a high crime area as compared to other reporting districts in the City. The highest volume of crimes in this area is larceny and theft. The highest volume of arrests in the area are drug-related offenses. Driving under the influence (“DUI”), public intoxication, and liquor law violations make up 37% of all arrests in this reporting

district. In comparison, the figure for neighboring RD 45 is 21%, for RD 39 is 20%, and for RD 47 is 31%. However, the area is a vibrant commercial corridor in proximity to Corona del Mar State Beach which attracts many visitors and tourists. These commercial and public recreation areas result in a higher volume of alcohol and drug related calls for service, crimes, and arrests.

- b. The NBPd memorandum identified one dispatch event, one Group A reported crime, and one Group B reported crime to the Property in 2024. None of the reports resulted in an arrest, and none were related to alcohol. Therefore, the NBPd has no concerns with the proposed application with inclusion of the conditions of approval provided by the NBPd.

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. Although the Project abuts a residential district, the Property is located within a multi-tenant commercial building situated in the Commercial Corridor (CC) zoning district along East Coast Highway in Corona Del Mar. Residential neighborhoods are located to the south and west of the Property. To the north and east of the Property, there are additional commercial uses. In addition, the Restaurant entrance is oriented towards East Coast Highway and does not face the residential neighborhood.
- b. The Property is not in proximity to a daycare center, recreational facility, school, or similar uses that attract minors. The Property is located approximately 1,800 feet from Community Church Congregational along Heliotrope Avenue, approximately 630 feet from Bayside Park, and approximately 1,200 feet from the beach. Due to the proximity to these locations, the Project is not expected to negatively impact these areas where minors are present.
- c. The proposed alcohol sales are not anticipated to alter the operational characteristics of the multi-tenant building where the Restaurant is located such that it becomes detrimental to the area. There are limited sensitive land uses in the vicinity, and the Project will be required to comply with the conditions of approval, including the proposed hours of operation between 11a.m. to 10 p.m. daily, and a restriction from operating as a bar, tavern, cocktail lounge or nightclub.

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

- a. The Property is located in Census Tract 627.02, which has 13 active retail alcohol licenses and a population of approximately 2,667 residents. This represents a per capita ratio of one license for every 205 residents. Orange County has a per capita ratio of one license for every 557 residents. Because the Census Tract exceeds the ratio of on-sale retail licenses to population set by the County, the area is deemed to have an undue concentration of alcohol licenses.

- b. There are seven businesses within 1,000 feet of the Restaurant that sell alcohol as illustrated in Table 1 below:

<b>Table 1: Active ABC Licenses within 1,000 feet of the Restaurant</b>		
<b>Business Name</b>	<b>Address</b>	<b>ABC License Type</b>
Bandera	3201 East Coast Highway	Type 47 (On-Sale General – Eating Place)
Zinc Café & Bar	3222 East Coast Highway	Type 41 (On-Sale Beer & Wine – Eating Place)
Papa’s Liquor	3244 East Coast Highway	Type 21 (Off-Sale General)
The Quiet Woman	3224 East Coast Highway	Type 41 (On-Sale Beer & Wine – Eating Place)
Sota Sushi	3344 East Coast Highway	Type 47 (On-Sale General – Eating Place)
El Cholo	3520 East Coast Highway	Type 47 (On-Sale General – Eating Place)
Newport Wine & Spirits	3537 East Coast Highway	Type 21 (Off-Sale General)

While there is an oversaturation of alcohol licenses in this reporting district, the Property’s proximity to other establishments selling alcohol does not raise concern due to the limited characteristics of the proposed use. Condition of Approval No. 27 explicitly prohibits the establishment from operating as a bar, tavern, cocktail lounge, or nightclub as defined by the NBMC.

- c. Although the per capita ratio of on-sale alcohol licenses to residents is higher than the average in Orange County, and the Property is within proximity to other establishments selling alcoholic beverages for on-site and off-site consumption, the operational conditions of approval recommended by the NBPD and the requirement to maintain an operator’s license will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

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

- a. No objectionable conditions are presently occurring at the Property. The Property has historically been used for commercial businesses, including restaurants. There is no evidence that suggests the Project will create objectionable conditions with the proposed sale of alcohol. The sale of alcohol will complement the existing food service and will provide a convenience to the customers.
- b. The Project has been reviewed by the NBPD who has provided conditions of approval related to alcohol service. The conditions of approval 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 NBPD does not anticipate detrimental conditions given the proposed limited operational characteristics and conditions.

- c. As conditioned, the owners, managers, and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.
- d. The Project does not propose late hours (after 11 p.m.), live music, or dancing. Conditions of Approval Nos. 6 and 7 of this resolution continue to limit the hours of operation and prohibit live entertainment and dancing.

**Conditional Use Permit**

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor 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 Corridor Commercial (CC) by the Land Use Element of the General Plan. The Corridor Commercial (CC) designation 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 includes a request for a Type-41 (On-Sale Beer and Wine – Eating Place) ABC license at an existing restaurant and no physical changes are proposed. The Restaurant will continue to serve visitors and residents in the area.
- 2. The Project is consistent with the following General Plan Land Use policies, applicable to the Project:
  - a. **Land Use Element Policy LU 1.5 (Economic Health).** *Encourage a local economy that provides adequate commercial, office, industrial, and marine-oriented opportunities that provide employment and revenue to support high-quality community services; and*
  - 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 provides an existing restaurant the opportunity to continue to serve visitors and residents in the area with additional menu options. The Project also provides employment opportunities for Restaurant employees and will enhance the vibrancy of the commercial corridor.

3. Condition of Approval No. 6 requires the indoor dining area close by 10 p.m. daily, which is not categorized as being late hours. By forgoing operations into late hours, the Restaurant will be compatible with adjacent residential properties and the nearby neighborhood.
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 of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The Property is located in the Commercial Corridor (CC) Zoning District and coastal zoning districts. Like the Land Use categorization of “Corridor Commercial”, the Commercial Corridor (CC) Zoning District is intended to provide areas appropriate for a limited range of neighborhood-serving retail and service uses. These uses will be developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The Project is for restaurant use and is therefore consistent with the Commercial Corridor (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 Commercial Corridor (CC) Zoning District, subject to approval of a minor use permit. Since the Project intends to provide off-street parking at the nearby Marigold Lot and will request to waive a portion of the required off-street parking, a CUP will instead be required.
3. The Property is physically suitable for the existing restaurant. It is located in an existing multi-tenant commercial building and complements the mix of commercial uses in the immediate area along Coast Highway East. The existing restaurant and multi-tenant commercial building are adequately served by a shared trash enclosure located within the adjacent parking lot.
4. The operational characteristics of the Restaurant are compatible with the surrounding neighborhood because there are no late hours of operation proposed with the Restaurant. As conditioned, the Restaurant will operate between 11 a.m. and 10 p.m. daily. The closing hours will ensure there is minimal impact to the adjacent residential neighborhood.
5. Pursuant to Table 3-10 (Off-Street Parking Requirements) of Sections 20.40.040 and 21.40.040 (Off-Street Parking Spaces Required) of the NBMC, restaurants require parking spaces at a rate of one space per 100 square feet of gross floor area (“GFA”).

The resulting parking requirement for the Restaurant is based on 700 square feet of GFA, thus requiring 7 parking spaces (700 sq. ft./100 = 7).

6. The 28-space private Marigold Lot adjacent to the multi-tenant building including the Property provides convenient parking for the Restaurant's patrons and employees. Related to NBMC's mandated parking requirements, Facts 1 through 9 in support of Finding G are 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 Project involves an existing restaurant located within an existing multi-tenant commercial building. The Project does not propose any alteration or expansion of the existing business, and it complements the existing mix of commercial uses in the immediate area.
2. The nearest residential zoning district is located directly southeast of the Property. The Restaurant is within a suite of a multi-tenant commercial building in the Commercial Corridor (CC) zoning district. The main entrance to the Property is oriented towards East Coast Highway, away from the residential neighborhood. The operational characteristics of the business ensure that there is no detriment to the adjacent residential uses.
3. Fact 2 in support of Finding A(v) is herein incorporated by reference.
4. Fact 3 in support of Finding B is herein incorporated by reference.

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 Project would allow the existing restaurant to serve beer and wine to customers, with no other changes proposed. The sale of alcohol would not alter the existing physical conditions of the Property.
2. The Project was reviewed by the Fire Department, Public Works, and the Building Division. It was determined that the Property provides adequate public and emergency vehicle access.

3. The Project was reviewed by the Public Works Department. It was determined that adequate public services and utilities are provided to the Property.

Finding:

- F. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor 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 Restaurant's entrance orients towards East Coast Highway and away from the residential neighborhood. There are no late hours of operation proposed with this Project. As conditioned, the Restaurant will operate between 11 a.m. and 10 p.m. daily, and the closing hours will help to ensure there is no detriment to the adjacent residential neighborhood.
2. The Type 41 (On-Sale Beer and Wine – Eating Place) ABC License will provide dining services as a public convenience to the surrounding residential neighborhood and visitors. The service of alcohol will complement the principal use of the facility as a restaurant and provide an economic opportunity for the Applicant to maintain a successful business in a way that best serves the community.
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 ensure compatibility with the surrounding land 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. 35 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. Fact 3 in support of Finding B is hereby incorporated by reference.
6. Fact 3 in support of Finding A(v) is hereby incorporated by reference

***Off-Street Parking Reduction***

In accordance with Section 21.40.110(B)(1) (Adjustments to Off-Street Parking Requirements – Reduced Parking Demand) of the NBMC, off-street parking requirements may be reduced with the approval of a conditional use permit in compliance with Section 20.52.020 (Conditional

Use Permits and Minor Use Permits) of the NBMC. 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. The Restaurant is located in a multi-tenant commercial building with two other retail businesses, The Wee Loft Toy Shop at 3331 Coast Highway East and CDM Florist at 3337 Coast Highway East. The Property does not provide off-street parking and is nonconforming to current City parking requirements.
2. The adjacent 28-space Marigold Lot to the south of the Property is shared with these tenants and two additional commercial businesses. The additional commercial businesses are OC Mattress at 3347 East Coast Highway, and Coast Barber Shop at 333 Marigold Avenue. No fee is charged for the parking lot for customers of the associated businesses, and "Customer Parking Only" signage, with a two-hour limit, is posted at the entrances to the parking lot. The Marigold Lot is a standalone use, not tied to any business or property as code required parking, and is available solely for the convenience of customers for the adjacent businesses.
3. Table 3-10 (Off-Street Parking Requirements) in Sections 20.40.040 and 21.40.040 (Off-Street Parking Spaces Required) of the NBMC provides a parking requirement for the existing take-out service of 1 parking space for every 250 square feet of floor area, or 3 requires space for 700 square feet of GFA for the current restaurant. A full-service restaurant has an increased parking requirement of 1 space per 100 square feet of GFA, or 7 required parking spaces. This is an increase of 4 parking spaces above the existing parking requirement.
4. Per NBMC Section 20.38.060 and 21.38.060 (Nonconforming Parking), a nonconforming structure or use may be intensified to a new use that requires additional parking if that parking is required or waived. For the proposed project, a parking waiver of 4 spaces (57%) is required to accommodate the increase in intensity of the use to a full-service restaurant.
5. To support the request, a parking study dated February 24, 2026 has been provided by RK Engineering Group, Inc. ("Parking Study"). The Parking Study establishes a parking demand by collecting observational parking counts during peak summer season operations and during favorable weather conditions on a Thursday, Friday, and Saturday between July 10 through 12, 2025. Total counts were collected through one-hour intervals between 10:00 AM and 9:00 PM covering lunch, mid-afternoon, and dinner traffic. Parking demand was observed in the Marigold Lot (identified as Zone 1)

and five adjacent on-street public parking areas (Zones 2 through 6) based on proximity, visibility, and ease of access for patrons of the Property. The observed peak parking demand for parking spaces in the Marigold Lot (Zone 1) occurred on Friday, July 11, 2025 between 12 p.m. and 1 p.m. During this time, 19 out of 28 available parking spaces were occupied resulting in 68% utilization. On the same day and at the same time, observed demand for Zones 2 through 6 was 77%.

6. In response to City’s review comments, supplemental parking counts were requested for a typical weekday operation outside of the grand opening period. Supplemental counts were conducted on Thursday, January 15, 2026. The supplemental results further confirm that adequate parking capacity remained available in the Marigold Lot in Zone 1 and within the off-site study area (Zones 2–6) during peak weekday operating hours. Furthermore, the shared parking dynamics and complementary peak-demand patterns among existing tenants affirms that the existing parking supply is adequate to support the Restaurant without adverse effects.
7. The Parking Study concludes that sufficient capacity remains during peak operating periods, both within the on-site parking lot (Zone 1) and across the broader study area (Zones 2 through 6). In addition, the restaurant is in an area that experiences strong walking and bicycle traffic, as well as a shared parking dynamic with complementary peak-demand patterns for existing tenants. The City Traffic Engineer has reviewed and accepted the Parking Study.
8. If the Marigold Lot is no longer available to the restaurant for parking in the future, Conditional of Approval No. 10 grants the Community Development Director and City Traffic Engineer the ability to revisit the parking requirements for the project to determine appropriate measures to accommodate the restaurant operations and ensure no adverse impact to the availability of on-street parking for residents and visitors.

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:

1. A parking management plan has been prepared in compliance with Sections 20.40.110(C) and 21.40.110(C) (Adjustments of Off-Street Parking Requirements – Parking Management Plan) of the NBMC in case the site's parking supply needs to be better utilized. The plan includes considerations for an employee parking policy, signage and space identification, and security enforcement of customer-only parking restrictions.

**Coastal Development Permit**

In accordance with Section 21.52.015(F) (Coastal Development Permits – Findings and Decision) of the NBMC, the Planning Commission must make the following findings to approve a Coastal Development Permit (“CDP”) as follows:

Finding:

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

Facts in Support of Finding:

1. Pursuant to Section 21.20.020 (Commercial Coastal Zoning District Land Uses) Table 21.20-1 of the Implementation Plan, eating and drinking establishments with no late hours are allowed in the Commercial Corridor (CC) Coastal Zoning District.
2. The Project intends to add alcohol sales to an existing take-out restaurant. Pursuant to Section 21.70 (Definitions) of the NBMC, the addition of alcoholic beverage service changes the operational characteristics of the Restaurant from a “Take-out service—Fast-casual” to a “Food service, no late hours” eating and drinking establishment land use. The food service, no late hours designation has a higher parking requirement than the take-out service designation, and is therefore considered an intensification of use.
3. The Project offers uses that serve visitors within the area. Since the existing parking supply in the immediate area has proven to be sufficient for the observed parking demand, the Project is not expected to generate parking spillover into public streets or negatively impact public parking for coastal zone visitors.
4. All Facts in Support of Findings G and H are hereby incorporated by reference.
5. The Property is located approximately 1,200 feet south from a public beach access location identified by the Coastal Land Use Plan (“CLUP”). Between the operational characteristics of the Project and the distance from the beach, no parking spillover or negative impacts to the public beach access are anticipated. The Project is located within an existing multi-tenant commercial building and is adequately served by the existing parking supply in the immediate area.

Finding:

*N. 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 Project is not located between the nearest public road and the sea or shoreline. Therefore, it is not necessary to assess the consistency with public access and public recreation policies in Chapter 3 of the Coastal Act. Additionally, the Property is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the CLUP.
2. Fact 4 in Support of Finding M is hereby incorporated by reference.

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) and 15303 under Class 3 (New Construction or Conversion of Small Structures) 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 PA2025-0152, subject to the conditions set forth in Exhibit "A".
3. This resolution supersedes Use Permit No. UP2008-006 (PA2008-048) (as amended), which upon vesting of the rights authorized by PA2025-0152, 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 is filed with the City Clerk in accordance with the provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program) of the NBMC.

**PASSED, APPROVED, AND ADOPTED THIS 2<sup>ND</sup> DAY OF APRIL, 2026.**

AYES:

NOES:

ABSTAIN:

ABSENT:

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

BY: \_\_\_\_\_  
Jon 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 and floor plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this CUP and CDP.
4. This CUP and CDP 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.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans of the restaurant, shall require subsequent review and approval by the Planning Division. If deemed significant, an amendment to this CUP and CDP or the processing of a new permit may be required.
6. *The hours of operation shall be 11 a.m. to 10 p.m. daily. There shall be no late hours of operation permitted (after 11 p.m.).*
7. *There shall be no live entertainment or dancing.*
8. As necessary, Applicant shall restripe parking stalls of off-site parking lots so that markings accurately reflect which businesses the specific spaces serve and the time periods when they are available to the Restaurant.
9. As necessary, Applicant shall reface parking related signage to accurately reflect which parking lots serve the Restaurant and the time periods when they are available.
10. *The owner or operator of the Project shall immediately notify the Community Development Director (“Director”) of any changes in the use or availability of the Marigold Lot (329 Marigold Avenue), or of any termination or default of the agreement between the property owners to allow customer parking in said lot. Upon notification that any private lease agreement for the Marigold Lot has terminated or the parking lot is otherwise unavailable*

*for the use authorized by Conditional Use Permit filed as PA2025-0152, the Director shall establish a reasonable period of time in which one of the following shall occur: 1) Substitute parking is provided that is acceptable to the Director and City Traffic Engineer; or 2) the size or intensity of use authorized by PA2025-0152 is reduced in proportion to the parking spaces lost; or 3) the owner or operator of the project must obtain a parking reduction pursuant to Sections 20.40.110 and 21.40.110 of the NBMC rendering the required off-site parking unnecessary.*

11. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
12. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
13. 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.
14. No outside paging system shall be utilized in conjunction with this establishment.
15. 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.
16. 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.
17. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
18. 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 CUP and CDP.

19. 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.
20. Approval of PA2025-0152 does not alter or supersede the conditions of approval for Comprehensive Sign Programs CS2008-007 (PA2008-143) and CS2008-008 (PA2008-144).
21. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the NBMC.
22. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Konpa Nikkei Restaurant, including, but not limited to, PA2025-0152**. 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 Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorney's fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**Building Division**

23. The Applicant shall provide the required number of accessible parking spaces based on the total number of parking spaces provided in the parking lot. Accessible parking cannot be provided in a tandem parking stall, and the access aisle shall be 18 feet in depth and 5 feet wide.

**Police Department**

24. *The Alcoholic Beverage Control License shall be limited to a Type 41 (On Sale Beer and Wine – Eating Place) or a Type 47 (On Sale General). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Conditional Use Permit.*
25. The Applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in

connection with the use is a violation and may be cause for revocation of the Conditional Use Permit.

26. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible beverage service within 60 days of hire. This training must be updated every three 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.
27. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.
28. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
29. The full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
30. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
31. The applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
32. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
33. Strict adherence to maximum occupancy limits is required.
34. 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.
35. The operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

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