



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending May 14, 2021.

ZONING ADMINISTRATOR ACTIONS MAY 13, 2021

- Item 1: Katkin Residence Coastal Development Permit NO. CD2021-011 (PA2021-059)
Site Address: 2500 Marino Drive
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| Action: Approved by Resolution No. ZA2021-023 | Council District | 3 |
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- Item 2: 500 Orchid LLC Condominiums Tentative Parcel Map No. NP2021-002 (PA2021-033)
Site Address: 500 and 500 1/2 Orchid Avenue
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| Action: Approved by Resolution No. ZA2021-024 | Council District | 6 |
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- Item 3: Chipotle Mexican Grill Lot Merger No. LM2021-002 and Staff Approval No. SA2021-001 (PA2021-009)
Site Address: 3040 and 3050 East Coast Highway
- | | | |
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| Action: Approved by Resolution No. ZA2021-025 | Council District | 6 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2021-023

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-011 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED THREE (3)-CAR GARAGE LOCATED AT 2500 MARINO DRIVE (PA2021-059)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Eric Olsen, with respect to property located at 2500 Marino Drive, requesting approval of a coastal development permit.
2. The lot at 2500 Marino Drive is legally described as Lot 36 in Tract 01140.
3. The applicant proposes coastal development permit to allow the demolition of an existing single-family residence and the construction of a new two (2)-story, approximately 5,750-square-foot, residence including an attached, 665-square-foot, three (3)-car garage. The project also includes additional appurtenances such as site walls, fences, patios, spa, drainage devices, and landscaping. The design complies with all applicable development standards, including height, setbacks, and floor area limit, and no deviations are requested.
4. The subject property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-B) – (6.0 – 9.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held online on May 13, 2021, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment. The exceptions to this categorical exemption under Section 15300.2 are not applicable. 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.

2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one (1) single-family residence and the construction of a new approximately 5,750-square-foot, single-family residence, including an attached 665-square-foot, three (3)-car garage.
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.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 6,976 square feet and the proposed floor area is 5,747 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting Marino Drive and Vista Drive, 4 feet along the side property line and 10 feet along the rear property line abutting the alley.
 - c. The highest guardrail is less than 24 feet from established grade (12.40 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of three (3) vehicles, complying with the minimum three (3)-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.

2. The neighborhood is predominantly developed with one (1)- and (2)-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. The development is located on an inland property in a developed area approximately 450 feet from the bay. The project site is separated from the bay (the nearest body of water) by several rows of residences and Bay Shore Drive. The finished floor elevation of the first floor of the proposed structure is 12.25 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures. The identified distances from the coastal hazard areas coupled with the 12.25-foot NAVD88 finish floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The property is located within 500 feet of coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
6. Proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted
7. The project site is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is at Lower Castaways Park, approximately 1,500 feet northeast, and the project cannot be seen from this vantage point.

Finding:

- B. *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 site is located between the nearest public road and the sea or shoreline in the private community of Bayshores. Developed in 1941, Bayshores is a 258-lot single-family gated community located on the Lido Channel southwest of the Coast Highway and Newport Bay Bridge. The 39-unit Anchorage Apartment complex is also located adjacent the community. The community is accessible from Coast Highway via Bay Shores Drive, a private street. The shoreline is on the south and east sides of the community and consists of bulkheads and two (2) small sandy beaches. Public access points to the shore can be found along Coast Highway and Castaways Park.
2. The residential lot does not currently provide, nor does it inhibit public coastal access. Vertical and lateral access to the bay front is available adjacent to the Bayshores community at the Balboa Bay Club, approximately 850 feet from the subject property. Public access points to the shore can be found along Coast Highway and Castaways Park.
3. Coastal Land Use Plan Policy 3.1.5-3 requires public access consistent with public access policies for any new development in private/gated communities causing or contributing to adverse public access impacts. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a coastal lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. 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.

2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-011, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF MAY, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

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 Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
3. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
4. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control run-off. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
5. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
6. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
7. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. 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 Coastal Development Permit.
10. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined 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.
11. Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
12. Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
13. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans
14. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
15. Prior to the issuance of building permits, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
16. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
17. Prior to the issuance of building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
18. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current

property owner or agent.

19. 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 the current property owner or agent.
20. This Coastal Development Permit No. CD2021-011 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
21. 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 Katkin Residence including, but not limited to, Coastal Development Permit No. CD2021-011 (PA2021-059). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2021-024

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2021-002 FOR TWO (2)-UNIT CONDOMINIUM PURPOSES LOCATED AT 500 and 500 1/2 IRIS AVENUE (PA2021-033)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 500 Orchid, LLC (Applicant), with respect to property located at 500 and 500 1/2 Orchid Avenue, and legally described as Lot 2, Block 542 Corona del Mar Tract, requesting approval of a tentative parcel map for condominium purposes.
2. The applicant requests a tentative parcel map for two (2)-unit condominium purposes. A duplex has been demolished and a new duplex is currently under construction. The tentative parcel map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held online on May 13, 2021, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) 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 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for

condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

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.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 20 (Planning and Zoning) and is approved based on the following findings per NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps):

Finding:

- A. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. A duplex has been demolished and a new duplex is currently under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. That public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.

Finding:

- B. *That the site is physically suitable for the type and density of development.*

Facts in Support of Finding:

1. The lot is physically suitable for a two (2)-unit residential development because it is regular in shape. A duplex has been demolished and a new duplex is currently under construction. The new construction will comply with all development standards of the Zoning Code.

2. The subject property is accessible from the alley and is adequately served by all existing utilities.

Finding:

C. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

1. A duplex has been demolished and a new duplex is currently under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3) of the CEQA Guidelines under Class 15 (Minor Land Alterations).

Finding:

D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems.
2. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
3. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the

proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Fact in Support of Finding:

1. There are no public easements on-site. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.

Finding:

F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The property was previously developed with a residential use and is located in a Zoning District that permits residential uses.

Finding:

G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Code of Regulations (the California Building Code) that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.

Fact in Support of Finding:

1. The two (2)-unit dwelling that is proposed for construction is consistent with the intended uses of the R-2 Zoning District, which allows two (2) residential units on the property. The new development will replace an existing duplex and therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.

Fact in Support of Finding:

1. The new two (2)-unit dwelling will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter 3 of the Coastal Act.

Fact in Support of Finding:

1. The subject property is not within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2021-002, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 Subdivisions.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF MAY, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL****Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from “duplex” to “condominium.” The development will not be condominiums until this permit is final.
3. The building permit for the new construction shall not be final until after recordation of the parcel map.
4. 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 19 (Subdivisions) of the Newport Beach Municipal Code.
5. 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 the 500 Orchid LLC Condominiums including, but not limited to, Tentative Parcel Map No. NP2021-002 (PA2021-033). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys’ fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City’s costs, attorneys’ fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

6. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City’s CADD Standards. Scanned images will not be accepted.**

7. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one (1)-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. *The entire curb, gutter and sidewalk along the Orchid Avenue and Second Avenue frontages, per City Standard, and all alley panels along the alley frontage shall be reconstructed per City Standard.*
10. *The existing street trees along the Second Avenue frontage shall be protected.*
11. *A new 36-inch box City tree along the Orchid Avenue frontage shall be installed. The tree type shall be consistent with City Council Policy G-6.*
12. *New sod or low groundcovers of the type approved by the City shall be installed throughout the Orchid Avenue and Second Avenue parkways fronting the development site.*
13. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
14. All existing overhead utilities shall be undergrounded.
15. No above ground improvements are permitted within the 5-foot alley setback area.
16. An encroachment permit is required for all work activities within the public right-of-way.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
18. *Any non-standard encroachments within the Orchid Avenue and Second Avenue public rights of way, including but not limited to walls, planters gates and walkways shall be removed.*
19. *A 10-foot radius corner cutoff at the corner of Orchid Avenue and Second Avenue shall be dedicated to the City for street purposes.*
20. All on-site drainage shall comply with the latest City Water Quality requirements.

21. *A new accessibly compliant curb ramp shall be installed at the corner of Orchid Avenue and Second Avenue.*
22. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Building Division

23. Separate utilities shall be required for each unit.
24. A separate fire sprinkler system shall be required for each unit.

RESOLUTION NO. ZA2021-025

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING LOT MERGER LM2021-002 AND STAFF APPROVAL SA2021-001 FOR A TENANT IMPROVEMENT OF THE EXISTING RESTAURANT LOCATED AT 3040 AND 3050 EAST COAST HIGHWAY (PA2021-009)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Chipotle Mexican Grill, with respect to properties located at 3040 and 3050 East Coast Highway and legally described as Lot 5 together with Lot 6 of Block P of Tract No. 323 as filed in book 14, pages 40 and 41 of Miscellaneous Maps, in the County of Orange recorder's office.
2. The applicant proposes a lot merger and staff approval for a tenant improvement of the existing restaurant space. The tenant improvements include entry modifications, an interior and exterior façade remodel, new pick-up window, patio updates, and Americans with Disabilities Act of 1990 (ADA) parking and access enhancements. The lot merger would combine two (2) lots into a single parcel as a single building site.
3. The subject properties are designated Corridor Commercial (CC) by the General Plan Land Use Element and is located within the Commercial Corridor (CC) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held online on May 13, 2021, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, under Class 1 (Existing Facilities) and Section 15315, under Class 15 (Minor Land Divisions) 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 exemption allows improvements to existing private structures including interior or exterior alterations involving things such as interior partitions, plumbing, and electrical conveyances. The proposed site and building improvements to the existing restaurant are consistent with this exemption.

3. Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.
4. 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.

LOT MERGER

In accordance with Section 19.68.030 (Lot Mergers) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title*

Facts in Support of Finding:

1. The lot merger to combine two (2) existing lots by removing the interior lot line between the lots will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent. Maximum slopes on the project site are a maximum of 15 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. The future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

B. The lots to be merged are under common fee ownership at the time of the merger.

Fact in Support of Finding:

1. The two (2) lots to be merged are under common fee ownership and are conditioned to remain under common fee ownership prior to recordation of the lot merger.

Finding:

C. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. The merged lots will retain the Commercial Corridor (CC) zoning designation, consistent with the surrounding area. The CC Zoning District is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.
2. The Land Use Element of the General Plan designates the subject site as Corridor Commercial (CC).
3. The subject property is not located within a Specific Plan area.
4. Section 20.20.030 (Commercial Zoning Districts General Development Standards) of the Zoning Code establishes minimum lot area and width requirements. The proposed merger would result in a 11,088-square-foot parcel that is in conformance to the minimum 5,000-square-foot lot area standard of the Zoning Code. Additionally, the proposed merger would result in a lot width of approximately 117 feet, meeting the minimum 25-foot lot width, standard of the Zoning Code.

Finding:

D. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.

Facts in Support of Finding:

1. No adjoining parcels will be deprived of legal access as a result of the merger. Legal access is provided from East Coast Highway.
2. Currently, the site can be accessed from East Coast Highway and Jasmine Avenue. Due to the site circulation upgrades, the site will provide one (1)-way access from East Coast Highway with egress onto Jasmine Avenue.
3. That the design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.

Finding:

E. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.

Facts in Support of Finding:

1. Properties within the vicinity consist of varying shapes and sizes, including both residential and commercial properties. Properties to the east and west fronting East Coast Highway are zoned Commercial Corridor (CC) and consist of many conforming and non-conforming lots sizes.
2. The proposed lot merger will not create an excessively large lot in comparison to many of the existing lots in the area. There are many existing lots in the surrounding neighborhood that are similar to the proposed lot area such as 3140 East Coast Highway, which is approximately 12,977 square feet, 3101 East Coast Highway, which is approximately 9,591 square feet and 2841 East Coast Highway, which is approximately 13,150 square feet, among others.
3. Existing properties along East Coast Highway consist of varying widths. The lots range from 25 feet to 344 feet wide. The depths of the lots approximately range from 62 feet to 346 feet. The proposed lot merger would result in a lot width of 117 feet and a lot depth of 153 feet.

Finding:

F. The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot line and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, General Plan, and Coastal Land Use Plan.
2. That public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act. Public Works requires that the existing street tree within the East Coast Highway and Jasmine Avenue rights-of-way shall be protected in place, reconstruction the driveway approach on Jasmine Avenue per City Standard 160, and that the proposed parking layout shall comply with City Standard 805. Minor slope modifications may be permitted due to existing site conditions and previous approvals.
3. The subject property is not subject located in a Specific Plan area.

STAFF APPROVAL

Pursuant to Section 20.54.070 (Changes to an Approved Project), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing, and waive the requirement for a new use permit application. Pursuant to Section 20.50.30.B (Concurrent Processing), multiple applications for the same project shall be processed concurrently, and shall be reviewed and approved, modified, or denied by the highest review authority. In this case, the Zoning Administrator is the higher review authority. This approval and waiver of a new use permit application is based on the following findings and facts in support of the findings.

Finding:

G. The changes are consistent with all applicable provisions of this Zoning Code.

Facts in Support of Finding:

1. The project is located in the Commercial Corridor (CC) Zoning District. The Commercial Corridor is intended to provide for 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 proposed restaurant is a commercial use that serves visitors, residents, shoppers, and employees in the area, and the restaurant and outdoor dining patio is consistent with the purpose of the Commercial Corridor zone.
2. Eating and drinking establishments are allowed uses within Commercial Corridor Zoning District. Pursuant to section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements), the on-premise sale of alcohol in conjunction with an eating and drinking establishment is subject to approval of a use permit. The existing restaurant with alcohol service and outdoor dining patio is consistent with

the Commercial Corridor Zoning District and the operational characteristics approved under Use Permit No. UP1936 and Outdoor Dining Permit No. OD0027.

Finding:

- H. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The previously approved Use Permit was determined to be categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities), which exempts minor alterations to existing facilities involving negligible expansion of use beyond that existing at the time of the lead agency's determination and Class 15 (Minor Land Divisions), which exempts the division of property into four (4) or fewer parcels.
2. The tenant improvement qualifies for a Class 1 (Existing Facilities) categorical exemption as the improvement is a minor alteration and addition to an existing facility involving a negligible expansion of the authorized use. The lot merger qualifies for a Class 15 (Minor Land Divisions), which includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.
3. Refer to the full CEQA determination in Section 2 of this Resolution.

Finding:

- I. The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The proposed tenant improvements which include entry modification, an interior and exterior façade remodel, new pick-up window, patio updates, and ADA parking and access enhancements are not limited by an existing condition of approval for the project.
2. The net public area and outdoor patio areas are consistent with the square footage authorized in the original use permit and outdoor dining permit.
3. The parking spaces provided on-site is consistent with the use permit, less spaces lost as a result of necessary ADA improvements in accordance with Section 20.40.110 (A) - (Adjustments to Off-Street Parking Requirements).

4. The proposed take-out window will provide adequate queuing so that customers do not spill into the public right-of-way.

Finding:

- J. The changes do not result in an expansion or change in operational characteristics of the use.*

Fact in Support of Finding:

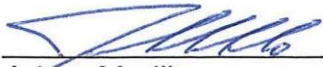
1. The eating and drinking establishment use with alcohol sales will remain unchanged as a result of the tenant improvement. The use will not change as the same conditions of approval are applicable, including requirements and limitations on food service and live entertainment. The hours of operation of from 6:00 a.m. to 12:00 midnight will be the same as previously approved under Use Permit No. UP1936. The hours of operation of the outdoor dining area from 8:00 a.m. through 9:00 p.m. will be the same as previously approved under Outdoor Dining Permit No. OD0027. Therefore, the proposed changes do not result in an expansion or change in operational characteristics of the use.
2. All employees of the restaurant facility shall park on-site at all times.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301, under Class 1 (Existing Facilities) and Section 15315, under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2021-002 and Staff Approval No. SA2021-001, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions) and Chapter 20.64 (Appeals), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF MAY, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The map shall be submitted to the Public Works Department for Final Map Review and Approval. All applicable fees shall be paid.
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Prior to recordation of the lot merger, the two (2) lots shall be held entirely under one (1) common fee ownership.
4. Lot Merger No. LM2021-002 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. 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 the Chipotle Mexican Grill including, but not limited to, Lot Merger No. LM2021-002 and Staff Approval No. SA2021-001 (PA2021-009). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
6. All previous applicable conditions of approval of Use Permit No. UP1936, UP1936 Amendment, and Outdoor Dining Permit No. OD0027 shall remain in full force and effect.
7. The development shall be in substantial conformance with the approved site plan, floor plan, and elevations stamped and dated with the date of this approval except as modified by applicable conditions of approval.
8. All references to approved plans in prior conditions of approval shall hereby refer to the approved plans stamped and dated with the date of this approval.

BUILDING

9. All customers shall access the building from the public right of way.
10. Prior to issuance of building permits, the path of travel shall comply with the five (5) percent maximum slope on private property and the maximum existing street slope along the public sidewalk in the direction of travel and a two (2) percent maximum cross slope.
11. Prior to issuance of building permits, the final design of the sidewalk along Jasmine Avenue is subject to further review and approval from the Building Division if the Public Works Department does not authorize the final design.

PUBLIC WORKS

12. Project shall install a new 36-inch box street tree within the Jasmine Avenue public right-of-way. Tree type shall be consistent with City Council Policy G.
13. The existing street tree within the East Coast Highway and Jasmine Avenue rights-of-way shall be protected in place.
14. The pavement markings shall be per the latest edition of the Caltrans Standard Plans and the signage shall be per the latest edition of the California Manual on Uniform Traffic Control Devices (CA MUTCD).
15. The driveway approach on Jasmine Avenue shall be reconstructed per City Standard 160.
16. The sidewalk along the Jasmine Avenue frontage shall be reconstructed per City Standard 180. Final design of the sidewalk along Jasmine Avenue is subject to further review and approval from the Public Works Department.
17. No structural improvements are permitted within East Coast Highway right-of-way, Jasmine Avenue right-of-way and road easement area along East Coast Highway, including but not limited to walls, footing, foundations, caissons, ramps, etc.
18. Prior to issuance of building permits, the proposed parking layout shall comply with City Standard 805. Minor modifications due to parking on slopes and drive aisle slopes may be permitted due to existing site conditions and previous approvals. Final approval for building permits issuance shall be obtained from the City Traffic Engineer.

CONDITIONS FROM PREVIOUS APPROVALS FOR REFERENCE

Use Permit No. UP1936

1. The development shall be in substantial conformance with the approved plot plan and floor plan. *(No longer applicable)*

2. That the trash container located in the parking lot shall be relocated to a site that does not obstruct a parking space and is not visible from adjacent residences or streets.
3. That the restaurant facility shall be limited to the hours from 6:00 a.m. to 12:00 midnight.
4. That employees of the restaurant facility shall park on-site at all times.
5. That the applicant shall utilize his best efforts in the next two (2) years to obtain the dedication to the public of a 10' radius corner at the corner of East Coast Highway and Jasmine Avenue, at which time the use permit shall be reviewed by the Modifications Committee.

Amendment to UP1936

1. That development shall be in substantial conformance with the approved plot plan and floor plan, except as may be noted below. *(No longer applicable)*
2. That the existing temporary building be removed from the site within twenty-one (21) days of the expiration date of the appeal period. *(No longer applicable)*
3. That a trash enclosure be constructed in accordance with the approved plan.
4. That the restaurant facility shall be limited to the hours from 6:00 a.m. to 12:00 midnight.
5. That employees of the restaurant facility shall park on-site at all times.
6. That the live entertainment shall be limited to two (2) persons at any one (1) time.
7. That there be no separate or additional amplification of the live entertainment other than through the facility's existing built-in system.
8. That the noise from the live entertainment be confined to the interior of the structure.
9. That all improvements be constructed as required by ordinance or the Public Works Department.
10. That the leaseholder shall dedicate his interests in a ten-foot radius corner cutoff at the corner of East Coast Highway and Jasmine Avenue, and that the dedications be completed prior to implementations of the revised use permit.
11. That the applicant obtain an encroachment permit from CalTrans for the planter constructed within the East Coast Highway Frontage. If a permit is not obtainable, the applicant shall remove the planter.
12. That all mechanical equipment, outdoor storage and trash areas shall be screened from the alley, adjoining properties, and streets.
13. That the rear parking area shall be repaved and striped in accordance with the attached parking plan. *(No longer applicable)*

14. That the service of alcoholic beverages shall be incidental to the primary food service operations. No bar area shall be constructed without amending this use permit.
15. That the subject restaurant shall be operated in a manner compatible with the adjacent residential district.
16. There shall be no trash pick-up or delivery of supplies or merchandise before 7:00 a.m.
17. That the Planning Commission may add/or modify Conditions of Approval to this use permit upon a determination that the operation, which is the subject of this use permit, causes injury, or is detrimental to the health, safety or welfare of the community.
18. That the proposed vending cart shall not be permitted.
19. No food or alcoholic beverages shall be served outside of the building at any time. The service of non-alcoholic beverages shall be permitted only during daylight hours outside of the building.
20. That no stage be constructed on the premises.
21. That an electrical permit be obtained and the parking lot lights be inspected. Said lights shall shielded or adjusted so as to confine the illumination to the restaurant site.

Outdoor Dining Permit No. OD0027

1. That development shall be in substantial conformance with the approved plot plan and floor plan, except as noted in the following conditions. *(No longer applicable)*
2. That the accessory outdoor dining shall be used in conjunction with the related adjacent food establishment and shall be limited 150 ± square feet maximum (gross area), as proposed (25 percent of the indoor net public are of 600 ± square feet), unless a use permit is obtained from the Planning Commission.
3. That the area outside of the food establishment, including the public sidewalks, shall be maintained in a clean and orderly manner and may be subject to providing steam cleaning of the public sidewalks as required by the Public Works Department.
4. That the trash receptacles for patrons shall be conveniently located outside of the related restaurant facility to serve the accessory outdoor dining area.
5. That no outside paging system shall be utilized in conjunction with this outdoor dining establishment.
6. That the seating adjacent to the food use facility shall be limited to the area as delineated on the approved site plan only. That the approved outdoor dining area shall be located on a solid surface in accordance with the approved floor plan or seating plan. *(No longer applicable)*

7. That the tables and seats shall be permanently affixed or of unitized construction, no freestanding tables shall be permitted, the specific number of table tops and seating shall be consistent with the site plan approved by the Planning Department (10 units of Model No. TF 3105 as depicted on the seating plan detail).
8. That this approval of Outdoor Dining Permit No. OD0027 is non-transferable by the permittee or property owner; and should this business 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 owner or the leasing company, and that this approval does not extend to future owners and that a new application must be approved by the Planning Department. *(No longer applicable)*
9. That the Planning Division may add to or modify conditions of approval to this outdoor dining permit, or revoke this approval upon a finding of failure to comply with the conditions set forth in Chapter 20.72 of the municipal Code or other applicable conditions and regulations governing the food establishment. The Planning Director may also recommend to the Planning Commission or City Council the revocations of this permit upon a detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

Special Conditions of Outdoor Dining Permit No. OD0027

10. That the hours of operation of the outdoor dining area is limited to between the hours of 8:00 a.m. and 9:00 p.m., daily; and that any increase in the hours of operation shall be subject to the approval of amendment to this application and may require an amendment to Use Permit No. UP1936 and UP1936 (Amended).
11. That alcoholic beverage service shall be prohibited in the outdoor dining areas, unless the approval of an amendment to the use permit is first obtained and the subsequent approval of the Police Department and Alcoholic Beverage Control Board. Any substantial physical changes require (as determined by the Planning Department) to accommodate alcoholic beverage service shall be subject to the approval of amendment to this Outdoor Dining Permit.
12. That all applicable conditions of approval of Use Permit No. UP1936 and UP1936 (Amended) shall remain in force.
13. That should problems arise with regard to noise associated with the outdoor dining areas, the Planning Division shall require the removal of all or a portion of the outdoor dining area seating in the areas which contribute to the noise problems or complaints.
14. That should problems arise with regard to tables, chairs or stools encroaching into the public right-of-way, private property pedestrian access or walkways, the Planning Division shall require the removal of all or a portion of the outdoor dining area seating.
15. That the use of the rear door shall be limited to deliveries and employee use only, use by costumers as an entry shall be prohibited.

16. That deliveries shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily.
17. That use of the rear door shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily.
18. That for sunshade purposes, coverings shall maintain a minimum vertical clearance of 7 feet measured from the floor of the dining area to the lowest portion of the shade structure. That the use of solid, permanent roof coverings or patio covers shall be prohibited, unless of open beam construction or of a fabric type material, such as a retractable awning.