



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION
FROM: Seimone Jurjis, Assistant City Manager/Community Development Director
SUBJECT: Report of actions taken by the Community Development Director for the week ending November 10, 2023.

**COMMUNITY DEVELOPMENT DIRECTOR
OR ZONING ADMINISTRATOR ACTIONS**
(Non-Hearing Items)

Item 1: The Bungalow Restaurant Temporary Outdoor Dining Tent Staff Approval (PA2023-0162)
Site Address: 2441 East Coast Highway

Action: Approved

Council District 6

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 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.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
www.newportbeachca.gov

ZONING ADMINISTRATOR ACTION LETTER

Subject: The Bungalow Restaurant Temporary Outdoor Dining Tent
(PA2023-0162)
▪ Limited Term Permit (Less than 90 Days)

Site Location 2441 East Coast Highway

Applicant Louie Feinstein, The Bungalow Restaurant LLC

Legal Description Lot 5 and 6 of Block B, Tract No. 470

On **November 8, 2023**, the Zoning Administrator approved a limited term permit (less than 90 days) to allow a temporary outdoor dining tent within the rear private parking lot area of the property at 2441 East Coast Highway ("Property"). The temporary outdoor dining tent is approximately 600 square feet in size with 14 tables and 40 total seats. As approved, it will be in place for less than 90 days and is permitted to operate from November 22, 2023, to January 2, 2024, to accommodate the holiday season. The Zoning Administrator's approval is based on the following findings and is subject to all conditions of approval thereafter.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** CC (Corridor Commercial)
- **Zoning District:** CC (Commercial Corridor)
- **Coastal Land Use Plan Category:** CC-B (Corridor Commercial – 0.0 - 0.75 FAR)
- **Coastal Zoning District:** CC (Commercial Corridor)

I. FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities) and Class 3 (New Construction or Conversion of Small Structures);*

Fact in Support of Finding:

1. The Class 1 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 Class 3 exemption includes a store, motel, office, restaurant,

or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The project includes a temporary 600-square-foot expansion of the outdoor dining area at an existing restaurant, is within the parameters noted for these exemptions, and will not have a significant effect on the environment.

Finding:

- B. The operation of the limited duration use at the location proposed and within the time period specified 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 requested limited duration use;*

Facts in Support of Finding:

1. The Limited Term Permit will allow a temporary outdoor dining tent in the private parking lot of The Bungalow Restaurant for less than 90 days, as conditioned (from November 22, 2023, through January 2, 2024). The temporary outdoor dining tent would serve as additional outdoor seating for restaurant guests during the holiday season and is fully located on private property.
2. The operation of the temporary outdoor dining tent is limited to the hours between 11:30 a.m. and 9:00 p.m., daily. This limited operation serves to reduce the potential impacts of noise and traffic for surrounding residents.
3. The temporary outdoor dining tent is approximately 600 square feet. Existing residences are located south and west of the parking lot, between Carnation and Begonia Avenues. The temporary outdoor dining tent will have plastic walls and windows, which serve as a physical barrier that contains the operation and buffers visibility.
4. The proposed operation of the temporary outdoor dining tent includes alcohol service. As conditioned, the temporary outdoor dining tent shall be operated in compliance with applicable State of California Department of Alcoholic Beverage Control (ABC) requirements.
5. An identical temporary outdoor dining tent was previously permitted through Emergency Temporary Use Permit No. UP2020-065 and Emergency Coastal Development Permit No. CD2020-073, and later extended through Limited Term Permit No. XP2021-012 and Coastal Development Permit No. CD2021-041, which allowed for the outdoor dining tent to operate between July 23, 2020, and December 31, 2022.
6. The restaurant operates with Use Permit Nos. UP1778 and UP2016-020. As conditioned, all applicable conditions of approval from UP1778 and UP2016-020

shall be adhered to for this temporary outdoor dining tent, unless otherwise modified by the conditions of approval contained herein. No use of amplified sound or live entertainment shall be permitted within the temporary outdoor dining tent.

Finding:

- C. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*

Facts in Support of Finding:

1. The subject lot is 8,123 square feet and moderately slopes up towards East Coast Highway. The restaurant has been in operation since 1976, with outdoor dining initially added in 1996, and expanded in 2016. As demonstrated in the provided site plan (Attachment No. ZA 3), there is adequate area to accommodate the expanded dining tent without impacting pedestrian circulation and coastal access.
2. The Property is located on the northeasterly corner of East Coast Highway and Carnation Avenue. Across East Coast Highway is a gas station at 2546 East Coast Highway, and residential uses are located further east. To the south, across Carnation Avenue, is Avila's El Ranchito restaurant and other retail and personal services. A private parking lot is located immediately south of the Property, and the Property is bounded to the west by other commercial uses. The temporary outdoor dining tent will not impede use and enjoyment of the properties in the area and will instead add to the ambiance and quaint character of Corona del Mar during the holiday season.
3. The temporary outdoor dining tent will occupy six standard parking spaces. No traffic or site circulation issues were experienced during the previous operation of the temporary outdoor dining tent. The temporary outdoor dining tent will be erected in the same location as the previous tent; therefore, traffic or site circulation issues are not anticipated.
4. The proposal of the temporary tent has been reviewed by the City's Police Department and Code Enforcement, both of which did not have any significant concerns about the requested limited term permit. Additionally, the tent has been reviewed by the City's Fire Department, Building Division, and Public Works Department. All applicable conditions of approval have been included as a part of this approval.

Finding:

- D. *The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*

Facts in Support of Finding:

1. The Property is located at the corner of East Coast Highway and Carnation Avenue. Vehicular access to the parking lot is provided from Carnation Avenue and is not impacted by the proposed temporary structure.
2. The restaurant provides eight on-site parking spaces for patrons and the remainder of parking is provided through use of off-site parking spaces as authorized by Use Permit No. UP1778. The temporary loss of six on-site parking stalls is not anticipated to negatively impact circulation as there is adequate parking available in the near vicinity of the restaurant.

Finding:

- E. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and*

Facts in Support of Finding:

1. A restaurant has operated at the Property since 1976. The existing on-site surface parking lot has historically provided only a fraction of the parking needed to serve the restaurant, with most of the parking provided through an off-site parking agreement with properties located at 2101 East Coast Highway and 711 Carnation Avenue.
2. Fact in Support of Finding B.5 is hereby incorporated by reference.

Finding:

- F. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The General Plan land use category for this site is Corridor Commercial (CC). The CC Category is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The expanded outdoor dining use is accessory to the existing food service use with outdoor dining, will be used for a limited duration on-site and will not impede use of the site consistent with the CC Category. Outdoor dining is a use that tends to foster additional pedestrian activity.
2. The site is within the Commercial Corridor (CC) Zoning District. The CC District is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The CC

District allows food service uses. The expanded dining area is a temporary use, authorized with a limited term permit.

3. The Property is located within the Coastal Zone. However, the Project does not require a coastal development permit because the proposed temporary outdoor dining tent is: (1) requested for the duration of the holiday season and, as such, the temporary event will not occur on or between Memorial Day weekend and Labor Day; (2) the event will not occupy any portion of a public sandy beach; (3) there is no potential for adverse effect of sensitive coastal resources; (4) an admission fee will not be charged; (5) it does not involve permanent structures or structures that involve grading or landform alteration for installation; and (6) the temporary use previously received a coastal development permit (CD2020-073 and CD2021-041) and will be held in the same location, at a similar season, and for a shorter duration, with operating and environmental conditions substantially the same as those associated with the previously approved event.
4. The Property is not located within a specific plan area.

II. CONDITIONS OF APPROVAL

Planning Division

1. All conditions of approval from Use Permit No. UP2016-020 and UP No. 1778 shall be adhered to unless specifically modified by the following set of conditions.
2. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
3. The temporary outdoor dining tent is permitted at the Property for a duration between November 22, 2023, and January 2, 2024. Operation of the temporary tent outside of this duration is prohibited. Subsequent to the expiration of this Limited Term Permit, the applicant shall remove the tent, clean, and restore the site to previous conditions within 30 days after expiration.
4. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
5. The temporary outdoor dining tent area shall not exceed 600 square feet.
6. Hours of operation of the temporary outdoor dining tent shall be between 11:30 a.m. and 9:00 p.m., daily.
7. The exterior of the temporary outdoor dining tent shall be maintained free of trash, 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.

8. All lighting for the temporary outdoor dining tent shall be shielded or positioned to not create glare onto adjacent properties.
9. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, 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.
10. The temporary outdoor dining tent shall be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
11. There shall be no use of amplified sound or live entertainment in the temporary outdoor dining tent.
12. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code (NBMC) and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified periods unless the ambient noise level is higher:

Location	Between the hours of 7:00 AM and 10:00 PM		Between the hours of 10:00 PM and 7:00 AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

13. The temporary outdoor dining tent shall not obstruct the public right-of-way. Patrons shall be prohibited from standing or waiting within the public right-of-way on Carnation Avenue.
14. Should the temporary outdoor dining tent become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
15. The Community Development Director may impose whatever reasonable conditions are deemed necessary to ensure that the temporary outdoor dining tent is compatible with adjoining uses and does not result in significant negative impacts to the health, safety, peace, comfort and the welfare of persons residing or working in the general vicinity.

16. 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 **The Bungalow Restaurant Temporary Outdoor Dining Tent** including, but not limited to, **Limited Term Permit No. PA2023-0162**. 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.

Fire Department

17. The Applicant shall obtain a special event permit from the Fire Department.
18. The temporary outdoor dining tent shall not be erected for more than 180 days within a 12-month period.
19. Prior to erecting the tent, the applicant shall provide a detailed site plan and floor plan for the tent seating area. The floor plan shall provide the proposed occupancy and show all exits. Exiting from existing structures shall not be obstructed. The site plan shall show current exiting from buildings and provide details that indicate the tent will not obstruct the means of egress to the public way.
20. Water-filled vessels shall not be used to anchor a tent or member structure unless approved and in accordance with the tent or member structure manufacturer's instructions.
21. The tent shall meet the requirements set forth in Title 19, Division 1, 332.(a) for flame resistance. Provide specifications with submittal of plans.
22. Labels indicating the flame resistance shall be attached to all tents and any sidewalls.
23. No cooking operations shall be performed in the temporary outdoor dining tent.
24. Smoking in the tent shall be prohibited and no smoking signs shall be posted.
25. Open flame or other devices emitting flame, fire or heat or any flammable or combustible liquids, gas, charcoal, or other cooking device or any other

unapproved device (including heating devices) shall not be permitted inside or located within 20 feet of the tent while open to the public.

26. Portable fire extinguishers (2A10BC) shall be provided and mounted in the tent in an accessible location.

Building Division

27. A building permit shall be obtained for a temporary structure that is more than 120 square feet.
28. The temporary outdoor dining tent shall provide not less than 5% accessible seating at tables and counters with knee clearance of at least 27 inches high, 30 inches wide, and 19 inches deep.
29. The tops of dining surfaces and work surfaces shall be 28 inches to 34 inches above the finished floor.
30. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
31. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
32. Accessible routes, including under canopy(ies) and other overhead improvements shall maintain a minimum clear height of 80 inches.
33. All electrical distribution lines shall be in good working order and shall be protected from pedestrian and vehicular traffic and shall accommodate accessibility.
34. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. An accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.

Public Works Department

35. K-rail or water-filled barricades shall be placed along the adjacent parking stalls and drive aisles surrounding the proposed outdoor dining tent structure. K-rail or water-filled barricades shall not encroach into the require parking stall dimensions or drive aisle dimensions.

36. Valet drop-off/pick-up operation shall not impact the drive aisle or public right-of-way.
37. Tent structure shall not impact access to any utilities, including cleanouts, meters, vaults, handholds, etc.


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Prepared by:

Approved by:



David Lee, Senior Planner
DL/lr



Benjamin M. Zieba, AICP, Zoning Administrator

Attachments: ZA 1 Vicinity Map
 ZA 2 Applicant's Project Description
 ZA 3 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit
(PA2023-0162)

2441 East Coast Highway

Attachment No. ZA 2

Applicant's Project Description

The Bungalow Restaurant LLC

Project Description

From 11/15/2023 to 1/2/2024 The Bungalow Restaurant will put up a Tent for temporary restaurant dining in our private parking lot.

The tent will be used 11:30am to 3pm- Monday -Friday (12/5-12/22) from 11/15/23 to 12/31 it will be used from 5pm to 9pm

It is a covered tent with walls and plastic windows, (see pictures) it will hold 40 guests with 14 tables

The tent will take up 6 parking spaces

Attachment No. ZA 3

Site Plan

