



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending July 24, 2015

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**COMMUNITY DEVELOPMENT DIRECTOR  
OR PLANNING DIVISION STAFF ACTIONS**  
(Non-Hearing Items)

Item 1: Del Taco, LLC Staff Approval No. SA2015-008 (PA2015-110)  
2111 Bristol Street

Action: Denied

Council District 3

**APPEAL PERIOD:** An appeal 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.



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915  
(949) 644-3200 Fax: (949) 644-3229

[www.newportbeachca.gov](http://www.newportbeachca.gov)

## **COMMUNITY DEVELOPMENT DIRECTOR** **ACTION LETTER**

**Application No.** Staff Approval No. SA2015-008 (PA2015-110)  
**Applicant** Del Taco, LLC  
**Site Address** 2111 Bristol Street  
**Legal Description** Parcel 2, Resubdivisions 0414

On **July 22, 2015**, the Community Development Director **denied** Staff Approval No. SA2015-008. The applicant requested approval for as-built modifications to parking lot circulation, drive-thru design and vehicle egress from the site as approved by Use Permit No. 1561 (Amended). The notable change would eliminate parking lot egress from the site onto Bristol Street thereby requiring all vehicles not using the drive thru to utilize an existing exit at the rear of the property. This exit routes vehicles onto easements located across two (2) adjacent properties onto Irvine Avenue. This denial is based on the inability to make all of the required findings pursuant to Section 20.54.070 of the Zoning Code (Changes to an Approved Project).

### **ZONING DISTRICT/GENERAL PLAN**

- **Zone:** Commercial General (CG)
- **General Plan:** General Commercial (CG)

### **BACKGROUND**

#### *Use Permit History*

Use Permit No. UP1561 was approved by the Planning Commission in 1971 and allowed the construction and operation of a drive-thru, take-out service establishment, Del Taco. The approved design included ingress to both the parking lot and drive-thru via a one-way entrance off Bristol Street. Once on the property, drivers either entered the drive-thru lane or parked in available off-street spaces. Egress from the site was also via a one-way driveway. Drive-thru customers circled around the building and exited back onto Bristol Street. Patrons using the parking lot and dining room exited the site via a drive lane adjacent to the drive-thru aisle and shared the exit onto Bristol Street.

*Use Permit – First Amendment*

In 1973, an amendment (Use Permit No. UP1561A-I) was approved which expanded the off-street parking by merging the existing restaurant site with a landlocked lot at the rear of the property and adding a double-faced menu board to the drive-thru. The redesign created a longer drive-thru queue lane and increased the on-site parking from twenty-three (23) to twenty-seven (27) spaces.

The expansion maintained an existing 15-foot-wide egress easement from the new rear parking lot area across 3520 Irvine Avenue and 3530 Irvine Avenue (existing Minute King Liquor Store) exiting onto Irvine Avenue. Patrons continued to enter via the one-way driveway from Bristol Street and exit the opposite side of the building back onto Bristol Street through the drive-thru or adjacent the drive-thru.

*Use Permit – Second Amendment*

In 1982, Use Permit No. UP1561A-II was approved to add a storage room and waive the additional required off-street parking. No changes to the vehicle circulation or parking lot design were included in this approval.

*Use Permit – Third Amendment*

In 1995, Use Permit No. UP1561A-III was approved to maintain an as-built outdoor patio, a small addition, the relocation of trash storage and to waive the required additional parking. Approval of the Use Permit required the parking, vehicular circulation and pedestrian circulation systems be reviewed and approved by the City Traffic Engineer which resulted in the approved site plan found in Attachment No. CD2. At that time the circulation included the drive-thru lane and adjacent egress lane to Bristol Street and the alternate egress at the rear that leads across 3520 and 3530 Irvine Avenue.

**PROJECT SUMMARY**

In response to a complaint, the Code Enforcement Division discovered that the circulation and design of the Del Taco parking lot had been changed without permits.

Upon notification, the applicant submitted an application pursuant to Section 20.54.070 (Changes to an Approved Project) of the Zoning Code. The applicant requested approval to retain the as-built alterations that include additional curbs and landscaping that closed the approved egress lane that was located adjacent to the drive-thru lane. This lane provided an exit to Bristol Street for customers using the dining room. Therefore, all vehicles other than those using the drive-thru, must exit the site using the rear access easement that routes vehicles onto the adjacent property at 3520 Irvine Avenue. The vehicles then drive onto 3530 Irvine Avenue (Minute King Liquor Store) and exit onto Irvine Avenue (see Attachment No. CD 1 for Vicinity Map and Attachment

No. CD 3 for proposed site plan). The applicant is requesting approval to retain the as-built modifications.

The City Traffic Engineer reviewed the proposed changes and determined that the 15-foot-wide easements do not provide sufficient width to accommodate most vehicles without utilizing areas outside of the easements. This is due to the 90 degree angle orientation of the lot compared to the Del Taco lot and the location of the existing building and parking lot. Additionally, increased traffic now occurs on the 3530 Irvine Avenue lot (Minute King Liquor Store) where vehicles accessing that site from Irvine Avenue conflict with the additional egress vehicles from Del Taco in a parking lot not designed to accommodate the increase in traffic.

Therefore, as detailed in the findings, it has been determined that 1) the unpermitted alterations to the parking lot and vehicle circulation are not in substantial conformance with Use Permit No. UP1561A-III; 2) the modified parking layout creates an undesirable circulation pattern; and 3) the parking lot and site design is required to be restored to the approved design found in Attachment No. CD2. Additionally, as recommended by the City Traffic Engineer (Attachment No. CD4), the drive-thru lane should be widened by removing the landscaping adjacent to the wall along the easterly property line. The widened lane would be re-striped to better accommodate two (2) lanes of traffic, one (1) for vehicles exiting the site from the parking area and one (1) for drive-thru customers.

## **FINDINGS**

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. In this case, the Community Development Director has determined that the proposed change to the circulation of the parking lot is not in substantial conformance with the existing restaurant operation or Use Permit No. UP1561A-III:

### Finding:

- A. *Are consistent with all applicable provisions of this Zoning Code.*

### Facts in Support of Finding:

1. The food service establishment use is consistent with the permitted land uses identified in the CG (Commercial General) Zoning District and is allowed to operate pursuant to Use Permit No. 1561A-III.
2. Condition No. 7 of UP1561A-III, states: "That the on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the City Traffic Engineer" (Attachment No. CD 5).

3. The proposed as-built alteration to parking lot circulation and access to and from the site requires all vehicles not using the drive-thru to exit via 3520 and 3530 Irvine Avenue. This results in an intensification of use of the non-exclusive easements on those properties. The City Traffic Engineer has determined that the easements are insufficient in size and that the off-site parking lots have not been designed to safely or effectively accommodate increased traffic. Therefore, the City Traffic Engineer cannot approve the proposed alterations and the as-built alterations are not in compliance with Condition No. 7 of Use Permit No. UP1561A-III.

Finding:

- B. 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 proposed change to the circulation of the parking area does not affect previous California Environmental Quality Act determinations related to the use.

Finding:

- C. 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 parking lot alterations are not consistent with the design previously approved by the City Traffic Engineer.
2. The City Traffic Engineer does not support the requested parking lot alterations and therefore, the proposed site plan is not in compliance with Use Permit No. UP1561A-III, specifically Condition No. 7 which states: "That the on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the City Traffic Engineer" (Attachment No. CD 5).
3. The easements and existing parking lot designs on the adjoining properties cannot efficiently or safely accommodate the increase in traffic.

Finding:

- D. Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed alterations change the parking lot and access from the site.
2. The size of the easement on the adjacent properties is not large enough to accommodate the increase in vehicle use. Additionally, the parking lot designs on those properties cannot safely accommodate the additional vehicular traffic. The additional traffic intensifies the use of the easements on the adjacent property.

**DETERMINATION**

This staff approval request has been reviewed and the determination has been made that the proposed alterations to the Del Taco parking lot are not in substantial conformance with Use Permit No. UP1561A-III. Code Enforcement will be provided with this determination and the applicant will be required to return the parking lot and drive-thru area to the design of the approved site plan found in Attachment No. CD 2. These changes require the approval of a building permit including review and approval by the City Traffic Engineer. The building permit must be obtained no later than August 21, 2015, to avoid further Code Enforcement action.

**APPEAL PERIOD:** An appeal 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. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



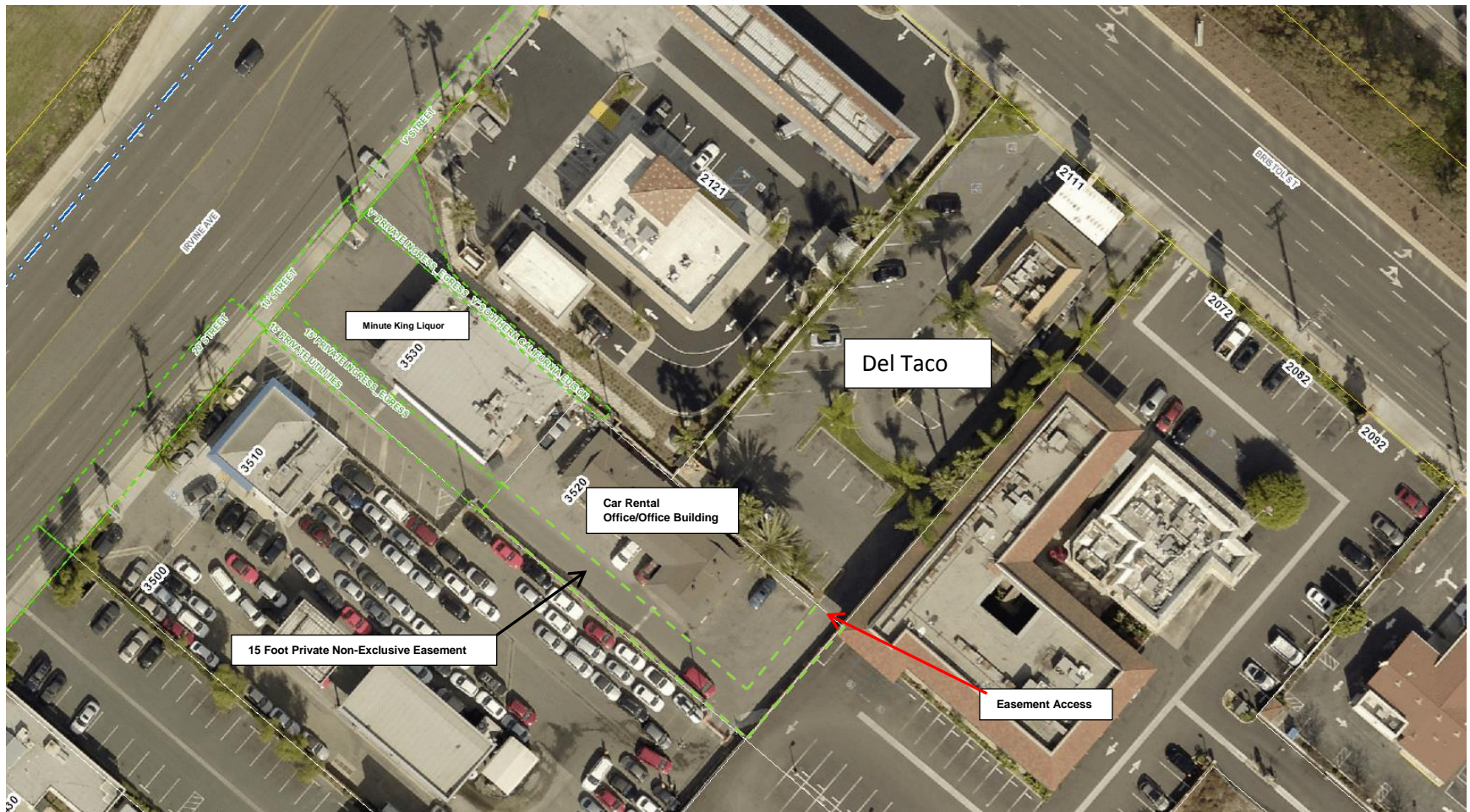
Melinda Whelan  
Assistant Planner

GBR/msw

Attachments: CD 1 Vicinity Map (Includes Easements on Adjoining Properties)  
CD 2 Use Permit No. 1561A-III Approved Site Plan  
CD 3 Proposed Site Plan (As-Built Changes)  
CD 4 City Traffic Engineer Comments  
CD 5 Use Permit No. 1561A-III Findings and Conditions

# **Attachment No. CD 1**

Vicinity Map



Minute King Liquor

Del Taco

Car Rental Office/Office Building

15 Foot Private Non-Exclusive Easement

Easement Access

EVING AVE

GUSTAVO

2121

2111

3530

2072

2092

2092

3510

3520

3500

340



## **Attachment No. CD 2**

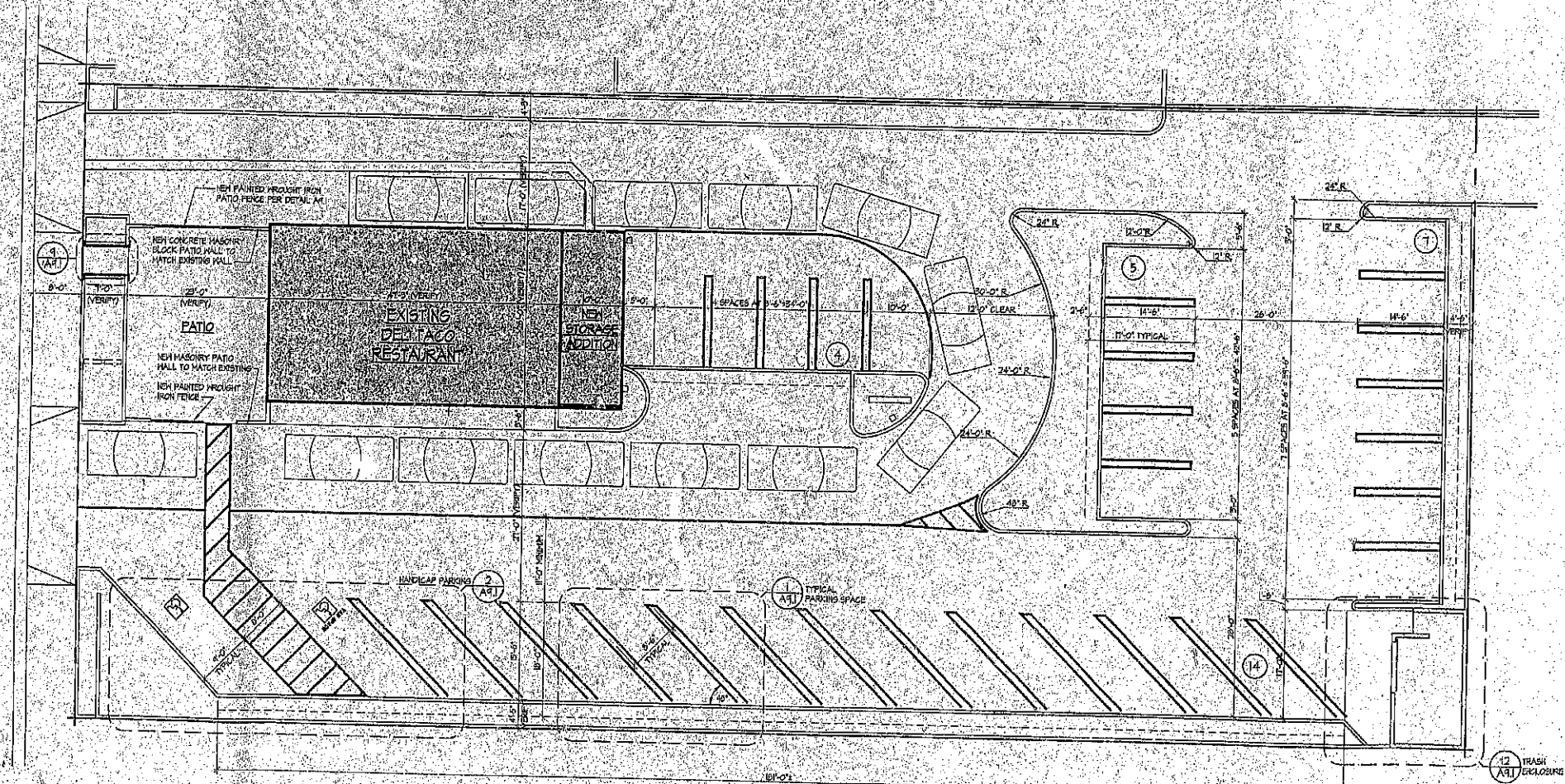
Use Permit No. 1561A-III Approved Site  
Plan

**GREGOR SIMONO ARCHITECT**

20101 S.W. Birch Street, Suite  
Newport Beach, California 92660  
Telephone (714) 756-1111  
Facsimile (714) 261-1111

**CLIENT**  
Del Taco, Inc.  
1800 West Katella Ave.  
Orange, California 92667  
(714) 744-1111

**PROJECT**  
Del Taco #1111  
2111 Bristol Ave.  
at Campus II  
Newport Beach, Calif.



BUILDING DEPARTMENT  
CITY OF NEWPORT BEACH, CA

APPROVAL OF THESE PLANS SHALL CONSTITUTE EXPRESSED APPROVAL OF THE CITY AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THESE PLANS. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THESE PLANS.

APPROVED BY: \_\_\_\_\_

DATE: \_\_\_\_\_



**REVISIONS**

NO.	DESCRIPTION	BY	DATE
1	PLAN CHECK CORR.	KC	

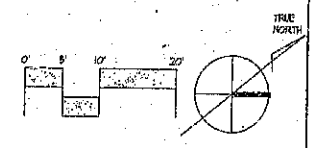
**PROJECT MANAGER**  
DRAWN BY  
JOB NUMBER  
DRAWING FILE  
DATE

DATE WHEN DESIGNED, NO SPECIFICATIONS AND SHALL BECOME VOID WITHOUT THE SIGNATURE OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THESE PLANS.

**SHEET TITLE**  
SITE

**SHEET NUMBER**  
A1.2

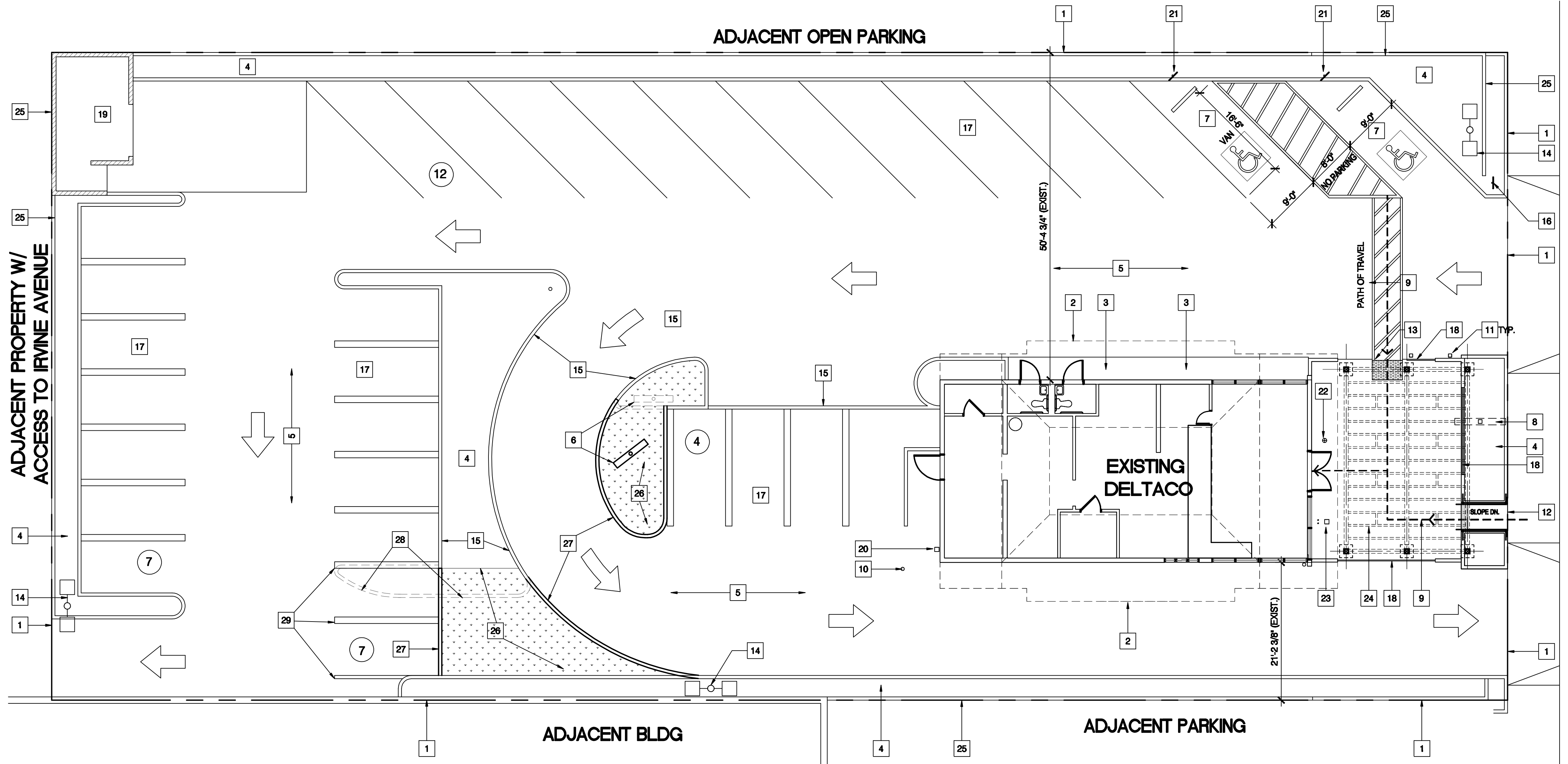
*PC 9/7-95  
11.2.33*



**SITE PLAN** SCALE 1"=10'-0" A

## **Attachment No. CD 3**

Proposed Site Plan (As-Built Changes)



- 1 (E) PROPERTY LINE
- 2 (E) ROOF OVERHANG
- 3 (E) CONCRETE SIDEWALK
- 4 (E) LANDSCAPE / PLANTER
- 5 (E) ASPHALT PAVING
- 6 EXISTING MENU / ORDER BOARD TO BE REMOVED AND RELOCATE
- 7 (E) ACCESSIBLE PARKING
- 8 (E) DEL TACO SIGN
- 9 (E) ACCESSIBLE PATH OF TRAVEL
- 10 (E) 6" DIA X 36" HIGH STEEL PIPE BOLLARD
- 11 (E) 6" SQUARE X 36" HIGH STEEL PIPE BOLLARD
- 12 (E) ACCESSIBLE CURB RAMP W/ 8.33% MAX. SLOPE (V.I.F.)
- 13 (E) PAINTED STL. RAIL TO BE CUT, PROVIDE 5FT CLEAR FROM FACE OF COLUMN TO NEW STEEL RAIL LOCATION
- 14 (E) PARKING LIGHT
- 15 (E) CONCRETE CURB
- 16 (E) UNAUTHORIZED VEHICLE SIGN TO REMAIN
- 17 (E) PARKING STALLS
- 18 (E) PAINTED STL. RAILS
- 19 (E) TRASH ENCLOSURE
- 20 (E) GAS METER
- 21 (E) ACCESSIBLE SIGN PER SEC. 11298.4 (C.B.C 2007) (V.I.F.)
- 22 (E) SEWER CLEAN-OUT FLOOR CAP
- 23 (E) HOLES BIB W/ RECESSED FLOOR VALVE
- 24 (E) TRELLIS ON EXISTING PATIO
- 25 (E) CONCRETE MASONRY WALL
- 26 (N) LANDSCAPE / PLANTER
- 27 (N) CONC. CURB TO MATCH EXISTING
- 28 (E) CONC. CURB TO BE REMOVED
- 29 (N) RE STRIPING 4" PAINTED PARKING STALLS

**SITE PLAN - KEY NOTES**

EXISTING PARKING (NO CHANGE)	
STANDARD:	28 SPACES
STANDARD ACCESSIBLE:	1 SPACE
VAN ACCESSIBLE:	1 SPACE
<b>TOTAL EXISTING PARKING</b>	<b>30 SPACES</b>

**CDI** Circa Domini International, LLC  
 Programming - Planning - Architecture - Interiors - Engineering  
 17802 Mitchell North, Irvine, CA, 92614  
 Phone: (949) 250-4117 Fax: (949) 250-1676

**Del Taco, Inc.**  
 25521 COMMERCENTRE DRIVE  
 LAKE FOREST, CA 92653  
 (949) 482-9300

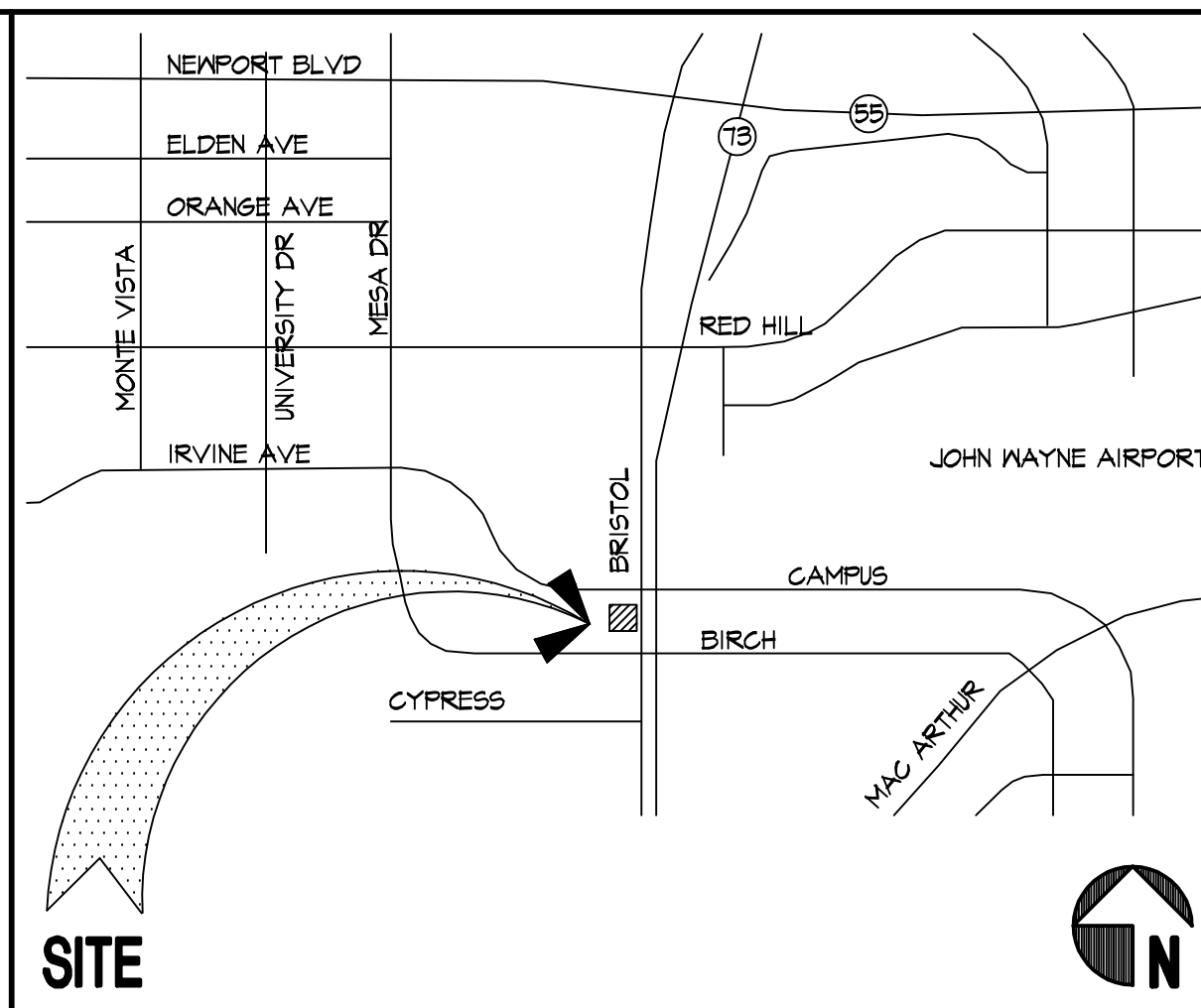
**SHEET INDEX AND SITE PLAN**  
 DEL TACO REMODEL  
 STORE #14  
 2111 SE BRISTOL AVENUE  
 NEWPORT BEACH, CA

REVISION	DATE	BY

**FIRE ALARM:** NO  
**ROOFED PATIO AREA:** 531 SF.  
**FIRE SPRINKLERS:** NO  
**NO. OF STORIES:** ONE  
**OCCUPANCY:** A2/B  
**EXISTING BLDG AREA:** 1,606.48 SF. (22 FIXED SEATS) MAX. 6,000 SF. PER TABLE 503. - 2007 CBC  
**EXISTING PATIO AREA:** 699 SF. (42 FIXED SEATS)  
**EXISTING BLDG HEIGHT:** +/- 20 FT. (REMAIN AS IS)  
**CONSTRUCTION TYPE:** V-B (EXISTING REMAIN AS IS)  
**PROJECT SCOPE:** ADDING OPEN TRELLIS STRUCTURE ONTO EXISTING PATIO. ALL EXISTING AREA AND SEATS REMAIN AS IS. NO MODIFICATION TO EXISTING BUILDING ENVELOPE OR SEATING LAYOUT

**CODES :**  
 2001 CBC  
 2007 CEC  
 2007 CMC  
 2007 CPC  
 TITLE 24 - 2008 CALIFORNIA ENERGY CODE.

**OWNER:** DEL TACO INC.  
**ARCHITECT:** CDI  
 17802 MITCHELL NORTH  
 IRVINE, CA 92614  
**CONTACT:** STEVE JORDAN  
 TEL: (949) 250-4117  
 FAX: (949) 250-1676  
 EM: sjordan@cdi.com  
**ELECTRICAL ENGINEER:** CDI  
 17802 MITCHELL NORTH  
 IRVINE, CA 92614  
**CONTACT:**

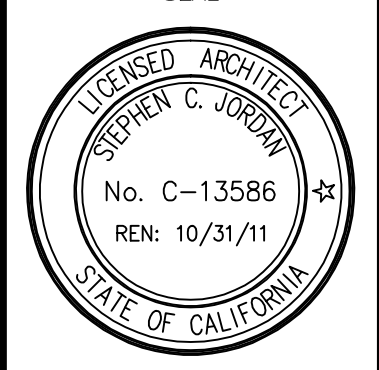


- A-0.1** SHEET INDEX AND SITE PLAN
- A-0.2** DETAILS
- A-1** FLOOR PLAN AND REFLECTED CEILING PLAN
- A-2** EXTERIOR ELEVATIONS
- A-3** PANEL SCHEDULES
- S-1** FOUNDATION PLAN, FRAMING PLAN AND DETAILS
- T-24** OUTDOOR LIGHTING TITLE 24 FORMS

1. THE CONTRACTOR SHALL EXAMINE THE CONDITION OF THE PROJECT AREA PRIOR TO COMMENCEMENT OF WORK AND SHALL BE RESPONSIBLE FOR COORDINATION OF ALL TRADES INCLUDING THOSE ITEMS FURNISHED BY OWNER.

2. ALL MATERIALS SHALL BE NEW AND QUALITY ACCEPTABLE TO THE ARCHITECT AND OWNER. ALL MATERIALS SHALL MEET A.S.T.M. STANDARDS AND APPLICABLE ORDINANCES. CONDEMNED MATERIALS SHALL BE PROMPTLY REMOVED/REPLACED AND ANY DAMAGE CAUSED BY SUCH REMOVAL MADE GOOD AT NO COST TO THE OWNER. ALL MATERIALS AND EQUIPMENT SPECIFIED ARE THE REQUIREMENTS OF THE OWNER AND ARE TO BE USED AS SPECIFIED. SUBSTITUTION WILL NOT BE PERMITTED WITHOUT PRIOR APPROVAL FROM THE OWNER AND THE ARCHITECT

**NOTE:**  
 ORIGINAL USE PERMIT CASE #1561



DATE	JOB NO
02-18-10	614.208
SCALE	DRAWN BY
AS SHOWN	

**STORE #14**  
 DRAWING NO.

**A-0.1**

**PROJECT DESCRIPTION**

**PROJECT DIRECTORY**

**VICINITY MAP**

**SHEET INDEX**

**GENERAL NOTES**

**SITE PLAN 1"=10'-0" 1**

**EXISTING PARKING COUNT**

## **Attachment No. CD 4**

City Traffic Engineer Comments

**City of Newport Beach  
PUBLIC WORKS DEPARTMENT**

July 1, 2015

TO: Melinda Whelan  
Assistant Planner

FROM: Tony Brine  
City Traffic Engineer

SUBJECT: CONDITIONS OF APPROVAL AND COMMENTS FOR:  
Staff Approval SA2015-008 (PA2015-110)  
2111 Bristol Street South – Del Taco

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**COMMENTS AND CORRECTIONS:**

1. The 15-foot wide easement along the easterly and southerly property line of 3520 Irvine Avenue does not provide sufficient width to circulate without utilizing areas outside of the easement. It is recommended that any intensification of use of the easement require approval from the property owner of 3520 Irvine Avenue. The circulation modification constructed at 2111 Bristol Street South requires that all vehicles not using the drive thru be required to exit the site via 3520 Irvine Avenue; this is an intensification of the use of the easement.
2. If approval from the property owner of 3520 Irvine Avenue cannot be obtained, it is recommended that the previous site circulation be restored. It is also recommended that modifications be made to the existing drive thru lane to widen this area and stripe it to better accommodate two lanes of traffic, one for vehicles exiting the site from the parking area and one for drive thru customers.

## **Attachment No. CD 5**

Use Permit No. 1561A-III Findings and Conditions

RIDGEWAY  
POMEROY  
GIFFORD  
DI SANO  
ADAMS

CITY OF NEWPORT BEACH

January 5, 1995

ROLL CALL							INDEX
						<p><u>Findings:</u></p> <ol style="list-style-type: none"> <li>1. That the proposed development is consistent with the General Plan and is compatible with surrounding land uses.</li> <li>2. That the waiver of the take-out restaurant development standards as they relate to a portion of the required parking (15 parking spaces) will be of no further detriment to adjacent properties inasmuch as the drive-in and take-out restaurant is an existing development which is designed in a way that meets the purpose and intent of such design standards; and adequate parking is being provided on-site.</li> <li>3. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.</li> <li>4. That public improvements may be required of a developer per Section 20.80.060 of the Municipal Code.</li> <li>5. Adequate provision for traffic circulation is being made for the drive-in and take-out restaurant facility.</li> <li>6. The approval of Use Permit No. 1561 (Amended) will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City.</li> </ol> <p><u>Conditions:</u></p> <ol style="list-style-type: none"> <li>1. That development shall be in substantial conformance with the approved site plan, floor plans, elevations and sign plans, except as noted below.</li> </ol>	



CITY OF NEWPORT BEACH

January 5, 1995

RIDGEWAY  
POMEROY  
GIFFORD  
DI SANO  
ADAMS

ROLL CALL	INDEX
	<ol style="list-style-type: none"> <li>2. That the proposed facility shall be permitted to operate 24 hours daily. The outdoor dining area shall be monitored for noise and, if necessary, the hours of its use shall be curtailed to an earlier closing hour.</li> <li>3. That the proposed relocation of the pole sign at the southeasterly corner of the property be positioned so that sight distance is maintained in accordance with the City's sight distance standard 110-L.</li> <li>4. That the proposed patio fencing and landscape planter shall be revised to provide sight distance at Bristol Street and the private drives in conformance with City Standard No. 110-L. Landscaping, walls and other obstructions shall be considered in the sight distance requirements. Walls and landscaping within the sight line shall not exceed 24 inches in height measured above the pavement.</li> <li>5. That all improvements be constructed as required by Ordinance and the Public Works Department.</li> <li>6. That a minimum of 29 off-street parking spaces (plus an additional 12 spaces in the drive-up stacking lane) shall be provided at all times.</li> <li>7. That the on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the City Traffic Engineer.</li> <li>8. That the drive-through facility shall be operated in such a manner that vehicles will not be allowed to block access driveways. This shall be monitored at all times by the applicants' representatives at the site. An employee with a remote order unit shall be used during peak hours of operation to expedite the orders so there will not be back-ups in the stacking lane onto Bristol Street. If back-ups occur, the incoming customers shall be directed to bypass the drive-</li> </ol>

