



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 June 28, 2019.

ZONING ADMINISTRATOR ACTIONS JUNE 27, 2019

Item 1: The Lost Bean Minor Use Permit No. UP2018-025 (PA2018-274)
Site Address: 1200 Dove Street

Action: Approved by Resolution No. ZA2019-045

Council District

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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. ZA2019-045

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-025 FOR A TAKE-OUT SERVICE, LIMITED, EATING AND DRINKING ESTABLISHMENT LOCATED AT 1200 DOVE STREET (PA2018-274)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jennifer Crump of KTG Architecture and Planning (“applicant”) with respect to property located at 1200 Dove Street, and legally described as Parcel 2 on Page 27 of Parcel Book 63, requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow a take-out service, limited eating and drinking establishment (restaurant) within an existing commercial building formerly used as a drive-up bank kiosk. The former drive-through will be converted to serve walk-up customers only. The restaurant would include approximately 235 square feet of gross floor area with no net public area or seating. The purpose of the restaurant is primarily to serve the office buildings located on the same property. No alcohol or late hours (after 11:00 p.m.) are proposed as a part of this application.
3. The subject property is located within the Newport Place Planned Community (PC11) Zoning District and the General Plan Land Use Element category is Mixed Use Horizontal (MU-H2).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 27, 2019, in the Corona del Mar Conference Room (Bay E-1st floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting 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 meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves alterations to the interior floor plan of an existing commercial space with no expansion in floor area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The General Plan land use designation for this site is MU-H2 (Mixed Horizontal). The MU-H2 designation is intended to provide for a horizontal intermixing of uses that may include regional commercial office, multi-family residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood uses.
2. The proposed establishment is a commercial use intended to serve surrounding businesses and primarily the office buildings on the same property. Therefore, the use is consistent with this land use category.
3. The proposed take-out service, limited, establishment would be complementary to the surrounding commercial uses.
4. The subject property is not part of a specific plan area.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. A coffee kiosk (take-out service, limited) is permitted with the approval of a minor use permit in the commercial area of the Newport Place Planned Community (PC11) zoning district. A minor use permit is required for any outdoor or take-out restaurants in the commercial area of this zoning district.
2. Pursuant to Modification Permit No. 4884, the parking requirement for the property is one parking space for each 250 square feet of net floor area. The subject property consists of 151,184 square feet of net floor area with 624 parking spaces and therefore complies with this requirement. Pursuant to Newport Beach Municipal Code (NBMC) Section 20.40.040 (Off-Street Parking Spaces Required), the parking requirement for take-out service, limited restaurants is one parking space for each 250 square feet of gross floor area. Therefore, there is no additional parking required for the coffee kiosk.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. Parking at the subject property is consistent with Modification Permit No. 4884. The proposed coffee kiosk (take-out, limited) requires parking at a rate of one parking space for each 250 square feet of gross floor area; therefore, no additional parking is required.
2. The proposed establishment is complementary to the existing and allowed uses in the area, which consist of primarily regional office commercial and mixed-use developments.
3. As conditioned, the allowed hours of operation will be 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 4:00 p.m. on Saturday, consistent with the office buildings on site.
4. The restaurant is oriented towards Dove Street and allows for a food service use for walk-up customers to take the place of an under-utilized former drive-up bank kiosk building.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The project site is located on Dove Street which is located in a regional commercial area with moderate vehicular traffic and pedestrian activity. The proposed coffee kiosk will not result in increased vehicular and pedestrian activity as it is intended to primarily serve businesses in the office buildings on the same property as a support commercial use.
2. Adequate public access and all utilities are provided on site. Any additional utility will be required to be revised at plan check.
3. The Fire Department reviewed the project and site to ensure adequate public and emergency vehicle access is provided.
4. Any proposed site and tenant improvements must comply with the Zoning Code and all Building, Public Works, and Fire Codes for permits to be issued.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The proposed take-out service, limited, eating and drinking establishment will add additional take-out options to the area and provide an economic opportunity for the property owner to update the former drive-up bank kiosk and provide additional services to businesses and people working in the area.
3. The applicant is required to obtain approval from the Orange County Health Department prior to opening for business and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.
4. The proposed use includes hours limited to those of the office buildings on-site, no alcohol service is proposed, walk-up customers only, and there is no increased parking demand. Based upon the Zoning Code requirements, the proposed use will not result in a detriment to the existing office site or surrounding community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2018-025 (PA2018-274), subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. 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 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 27TH DAY OF JUNE, 2019.



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Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. 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 Minor Use Permit.
3. This Minor Use 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.
4. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
5. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
6. The hours of operation for the establishment shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 4:00 p.m. on Saturday. Hours of operation shall not exceed hours of operation of surrounding office buildings.
7. The sale of alcohol shall not be permitted.
8. No net public area or seating, including outdoor seating in the patio area designated for the coffee kiosk, is permitted without further review and may require an amendment to this Minor Use Permit.
9. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
10. A copy of the Resolution, including conditions of approval Exhibit "A," shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use Permit 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 Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

12. Prior to issuance of building permits, the project plans shall identify if the building is protected with automatic fire sprinklers and/or a fire alarm system to the satisfaction of the City's Life Safety Services Division.
13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
14. Trash receptacles for patrons shall be conveniently located outside of the establishment, however, not located on or within any public property or right-of-way.
15. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
16. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
17. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit.
18. Storage outside of the building, in the front, or at the rear of the property shall be prohibited, with the exception of the required trash containers.
19. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permit.
20. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
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 The Lost Bean Minor Use Permit including, but not limited to, Minor Use Permit No. UP2018-025 (PA2018-274). 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.