



# City of Costa Mesa

## Inter Office Memorandum

**TO:** CITY COUNCIL, PLANNING COMMISSION  
**CC:** TOM HATCH, BARRY CURTIS, AND JENNIFER LE  
**FROM:** WILLA BOUWENS-KILLEEN, ZONING ADMINISTRATOR  
**DATE:** JANUARY 18, 2018  
**SUBJECT:** ZONING ADMINISTRATOR DECISION(S)

*W. Bouwens-Killeen*

---

This is to advise you of the following decision(s) made by the Zoning Administrator within the last week. Project descriptions have been kept brief for this notice. Please feel free to contact me by e-mail at [willa.bouwens-killeen@costamesaca.gov](mailto:willa.bouwens-killeen@costamesaca.gov) if you have any questions or would like further details.

**PA-93-13 A**  
**(ZA-17-44)**

**1767 & 1769 NEWPORT BOULEVARD**

A request to amend condition of approval number one relating to the hours of operation placed on the Golden Truffle restaurant requiring closure between peak traffic generation times of 7 AM and 9 PM and 3 PM and 6 PM. The Golden Truffle is proposed to be replaced by two restaurant tenants that would operate from 7 AM to 9 PM Tuesday through Thursday; 7 AM -10 PM Friday and Saturday; and 7 AM to 9 PM Sunday; closed Mondays.

Approved, subject to conditions of approval.

Comments received: None.



# CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

January 18, 2018

James Mullis  
7621 Amazon Dr.  
Unit #1  
Huntington Beach, CA 92647

**RE: ZONING APPLICATION PA-93-13A (ZA-17-14)  
MINOR CONDITIONAL USE PERMIT TO AMEND CONDITION OF  
APPROVAL NUMBER ONE  
1767 / 1769 NEWPORT, COSTA MESA**

Dear James Mullis:

City staff's review of your zoning application for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval and code requirements (attached). The decision will become final at 5:00 p.m. on January 25, 2018, unless appealed by an affected party, including filing of the necessary application and payment of the appropriate fee, or called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Johnwilly Aglupos, at either [johnwilly.aglupos@costamesaca.gov](mailto:johnwilly.aglupos@costamesaca.gov) or 714.754.5692.

Sincerely,

WILLA BOUWENS-KILLEEN, AICP  
Zoning Administrator

Attachments: Project Description, Analysis, Findings, Conditions of Approval, Code Requirements, Business Intent Letter, and Floorplan.

cc: Engineering  
Transportation  
Building Safety Division

## **PROJECT DESCRIPTION**

The applicant requests approval of a minor conditional use permit (MCUP) to amend condition of approval number one of Planning Application PA-93-13 regarding the hours of operation placed on the subject property: The condition of approval limits the restaurant's hours of operation because of anticipated impacts on peak traffic generation. The site is zoned C2 (General Business) and has a General Plan land use designation of General Commercial. It is surrounded by commercially-zoned and developed properties to the north and south as well as to the east across Newport Boulevard; residentially-zoned and developed properties exist to the west across an alley.

In 1983, Planning Commission and Redevelopment Agency approved a restaurant establishment with 12 or less seating under ZE-83-112. An increase to the restaurant seating was approved in 1984 under ZE-84-52 with the conditions that the maximum seating be limited to 42 at lunch and 72 at dinner and valet parking be provided for restaurant patrons due to limited parking in the area. An expansion to the existing restaurant into an adjacent suite was approved in 1993 (PA-93-13) with the condition that the use of the expanded area be limited to take-out only with no on-site food consumption and limiting hours of operation of the restaurant to times that do not conflict with AM and PM peak hour traffic generation periods. The requirement for valet parking was also removed.

The former restaurant tenant, The Golden Truffle (the suite is currently vacant), is proposed to be replaced by two businesses — Toast and Fill — that will operate under the same roof and share amenities. Toast will be a sit-down restaurant serving breakfast, lunch, and dinner while Fill will provide counter service only selling malasadas (specialty donuts), coffee, and ice cream. Both businesses wish to open from 7 AM to 10 PM; however, existing approvals prohibits operating between 7 AM to 9 AM and 3 PM to 6 PM; a land use restriction was recorded against the property to ensure continued compliance with the condition. Pursuant to Municipal Code Title 13, Section 13-29(p)(1), a minor amendment to a conditional use permit may be processed as a MCUP.

## **ANALYSIS**

### *Seating*

Consistent with current approval, the applicant will provide at maximum 42 seats during lunch and 72 seats during dinner. To facilitate this requirement, a clearly defined interior space to the north of a proposed pony wall will contain 30 of the 72 seats and will remain closed and unoccupied for patrons during lunch hours (see attached floorplan). Fill, the counter service portion of the proposed use, will not have any seating. Therefore, Toast and Fill will not deviate from the number of seating as approved by the current Land Use Restriction.

### *Hours of Operation*

The applicant plans to open during lunch and dinner hours which is restricted under condition of approval number one of PA-93-13 due to the legal non-conforming FAR of the existing site and anticipated AM and PM traffic generation impacts. However, since PA-93-13 was approved, there has been a change to City policy: The City's Public Services Division now calculates trip fees to offset and mitigate anticipated traffic impacts due to an intensification of the use of a property. In applying for this MCUP, the applicant has stated their willingness to pay the necessary traffic impact fees, as calculated by the City's Public Services Division. Consequently, the hours of operation limitations can be removed since anticipated traffic impacts will still be mitigated.

### *General Plan Consistency*

The City's 2015-2035 General Plan ensures that development decisions and improvements to public and private infrastructures are consistent with the goals, objectives, and policies of the City.

- Policy LU-6.2: *Continue to promote and support the vitality of commercial uses to meet the needs of local residents and that support regional-serving commercial centers.*
- Policy LU-6.7: *Encourage new and retain existing businesses that provide local shopping and services.*

The location of the proposed restaurant is in a General Commercial land use designation which is intended to permit a wide range of commercial uses that serve both local and regional needs, and it has exposure and access to a major transportation route such as Newport Boulevard. Therefore, the proposed restaurant is compatible with the General Plan and the existing surrounding businesses. In addition, the approval of the restaurant will promote, support, and retain the existing characteristic of the site.

### **FINDINGS**

- A. The information presented complies with Costa Mesa Municipal Code Section 13-29(e) in that:
1. There is a compatible and harmonious relationship between the building and site development, and uses, and the building and site developments, and uses that exist or have been approved for the general neighborhood.
  2. Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation have been considered for the proposed project.

3. The proposed restaurants will be required to comply with any performance standards as described elsewhere in the Zoning Code and is conditioned to operate as described in this staff report.
  4. The proposed restaurants, as conditioned, are consistent with the City's General Plan land use designation of General Commercial. The proposed food and beverage establishments are a permitted use in the C2 General Business zone of the property. In addition, the proposed uses are consistent with Land Use Policy LU-6.2 and LU-6.7.
  5. The zoning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
- B. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:
1. The proposed uses are compatible and harmonious with developments in the same general area and would not be materially detrimental to other properties within the area. Existing and proposed conditions of approval are included which will minimize impacts of the restaurant on surrounding businesses and uses.
  2. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood. The proposed tenant improvements will comply with all the requirements of the 2016 California Building Code.
  3. Granting the minor conditional use permit will not allow a use, density or intensity that is not in accordance with the General Plan designation and any applicable specific plan for the property. Due to the proposed operating characteristics, the proposed use does not increase the intensity of the use beyond what has been developed and allowed use for the property.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt under Section 15301, Existing Facilities, of the CEQA Guidelines.

## **CONDITIONS OF APPROVAL**

- Plng
1. The applicant is reminded that all conditions of approval of Planning Application PA-93-13 and Zone Exception Permits ZE-83-112 and ZE-84-52 shall be adhered to including hours of operation from 7:00 AM to 10:00 PM. Additionally, the applicant is reminded that the restaurant shall be limited to 42 seats during lunch hours (11:30 AM to 3:30 PM) with the 30 seats in public area north of the new pony wall inaccessible until dinner hours (3:30 PM to 10:00 PM).
  2. The City shall prepare and the applicant shall record a termination of the Land Use Restriction regarding the hours of operation limitations after proof of payment of the City's traffic impact fees.
  3. The counter service portion of the business shall not have seating and is restricted to take-out sales only.
  4. The applicant shall contact the Planning Division to arrange a Planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
  5. Prior to issuance of Certificate of Occupancy (C of O) the applicant shall provide a scaled and dimensioned digital site plan(s) for the project site, on either a CD or thumb drive, to the Planning Division. All site plans shall include an accurate and precise drawing of all building footprints and property line locations for the entire project site. All buildings shall be annotated with its corresponding address and suites if applicable.
  6. A copy of the conditions of approval ZA-17-44, PA-93-13, ZE-83-112, and ZE-84-52 shall be kept on premises and presented to any authorized City official upon request.
  7. Applicant shall defend, indemnify and hold harmless the City, its officials and employees, against all legal actions filed challenging City's approval of the applicant's project and/or challenging any related City actions supporting the approval. City shall have the right to select the attorney defending it, if it elects to do so.
  8. The conditions of approval and ordinance or code provisions of ZA-17-44 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
  9. If any section, division, sentence, clause, phrase or portion of this resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
  10. The restaurants shall be limited to the type of operation described in the staff reports. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages, or provision of entertainment, will require approval of an amendment to the conditional use permit/minor conditional use permit, subject to Planning Commission or Zoning Administrator approval.
  11. The business shall be conducted at all times in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant

and/or business owner shall institute whatever security and operational measure are necessary to comply with this requirement.

12. The restaurant shall remain a "bona fide eating place" as defined by section 23038 of the California Business and Professions Code.

## **CODE REQUIREMENTS**

The following list of federal, state, and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- |      |  |
|------|--|
| Plng | <ol style="list-style-type: none"><li>1. Approval of the planning application is valid for two years from the effective date of this approval (January 25, 2020) and will expire at the end of that period unless applicant establishes the use by obtaining a business license reflecting the restaurant use. If the applicant is unable to obtain the business license within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the planning application.</li><li>2. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.</li><li>3. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.</li><li>4. Truck deliveries shall not occur anytime between the hours of 8:00 PM and 7:00 AM.</li></ol>   |
| Bldg | <ol style="list-style-type: none"><li>4. Prior to issuance of Certificate of Occupancy (C of O) the applicant shall provide a scaled and dimensioned digital site plan(s) for the project site, on either a CD or thumb drive, to the Planning Division. All site plans shall include an accurate and precise drawing of all building footprints and property line locations for the entire project site. All buildings shall be annotated with its corresponding address and suites if applicable.</li><li>5. Comply with the requirements of the following adopted codes: 2016 California Residential Code, 2016 California Building Code, 2016 California Electrical Code, 2016 California Mechanical Code, 2016 California Plumbing Code, 2016 California Green Building Standards Code and 2016 California Energy Code (or the applicable adopted, California Residential Code, California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Requirements for accessibility to</li></ol> |

sites, facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the 2016 California Building Code.

- Bus. Lic. 6. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.
- Trans. 7. To reflect the release of the hours of operation limitations, the applicant shall submit a Traffic Impact Fee to the Transportation Division prior to release of building permits or issuance of business license, whichever occurs first. The fee is required in an amount determined by the Transportation Division pursuant to the prevailing schedule of charges adopted by the City Council. The fee is calculated with consideration of standardized trip generation ratios for proposed uses and includes credits for existing uses. The fee will be calculated at the time of release of building permits or issuance of business license, whichever occurs first based upon the prevailing schedule of charges in effect at that time.

### **SPECIAL DISTRICT REQUIREMENTS**

The requirements of the following special district are hereby forwarded to the applicant:

- CDFA 1. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information.
- Health 2. Provide a plan to the County of Orange Health Department for review and approval.
- AQMD 3. Prior to the Building Division issuing a demolition permit, the applicant shall contact the South Coast Air Quality Management at either 909.396.2000 or <http://www.aqmd.gov/nav/contact> . The Building Division will not issue a demolition permit until an identification number is provided by the AQMD.



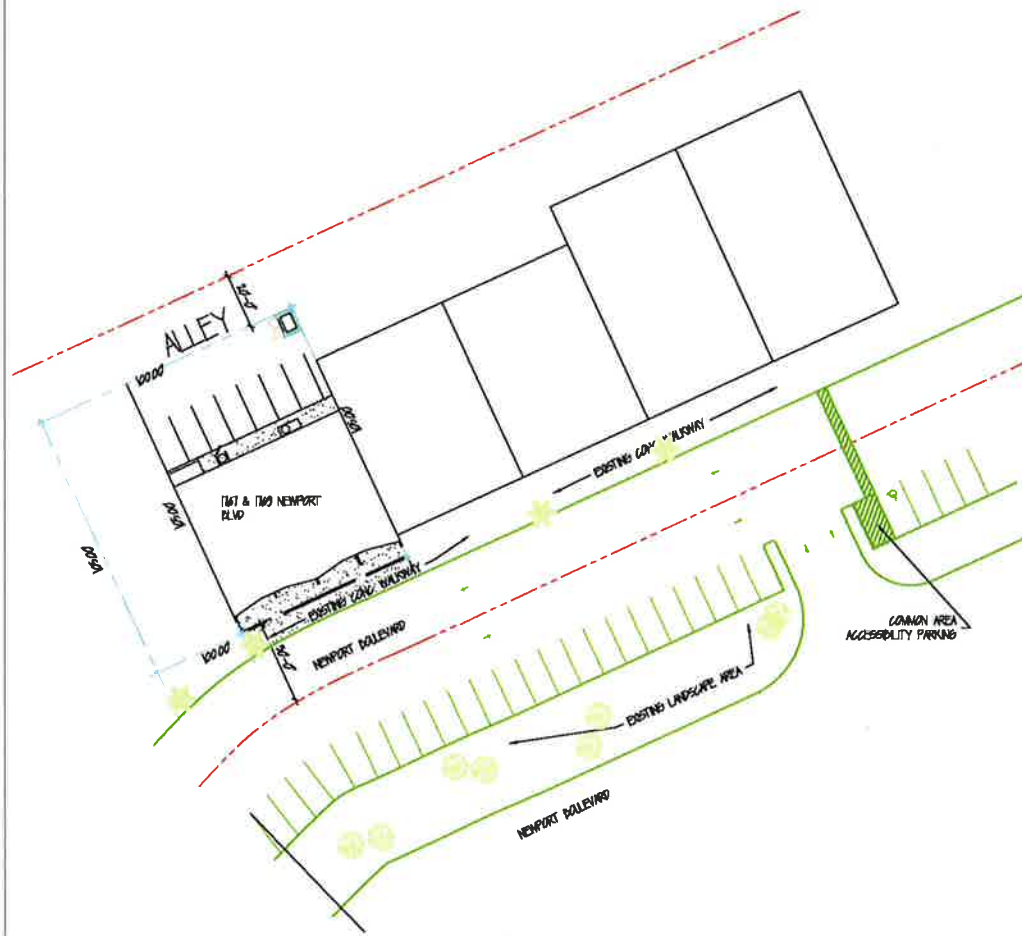
## Minor Conditional Use Permit Applicant Letter

My partners and I are opening two new businesses at 1767 and 1769 Newport Blvd, Costa Mesa 92627. Both concepts are operating under the same roof and sharing amenities. The businesses we will be opening here will be called Fill and Toast. We are applying for the MCUP to allow the concepts to be open from 7:00 - 9:00 am and 3:00 - 6:00 pm.

Located at 1769 will be Toast, it will be a restaurant with a bar, patio, and a dining room to the right of the kitchen. Guests will enter the restaurant from the streetside entrance of the building that faces Newport Blvd. Hours of operation will be 7:00 am - 9:00 pm Tuesday thru Thursday, 7:00 am - 10:00 pm Friday and Saturday, 7:00 am - 2:00 pm on Sunday, and closed on Mondays. The menu will consist of breakfast items and pastries in the morning and sandwiches and entrees for lunch and dinner. Peak times of busyness should be during dinner on the weekdays and breakfast on the weekends.

Located at 1767 will be Fill, it will be a donut shop that sells malasadas (Portuguese donuts, a ball of fried yeast rolled in sugar) coffee and ice cream. Guests will enter the shop from the streetside entrance of the building that faces Newport Blvd. Our peak times of busyness should be earlier in the morning as people want to purchase breakfast items from us and we should be busier later at night when guests are interested in a dessert offering. Hours of operation will be Sunday thru Thursday 7:00 am - 9:00 pm. Friday and Saturday 7:00 am - 10:00 pm. The shop will provide no seating.

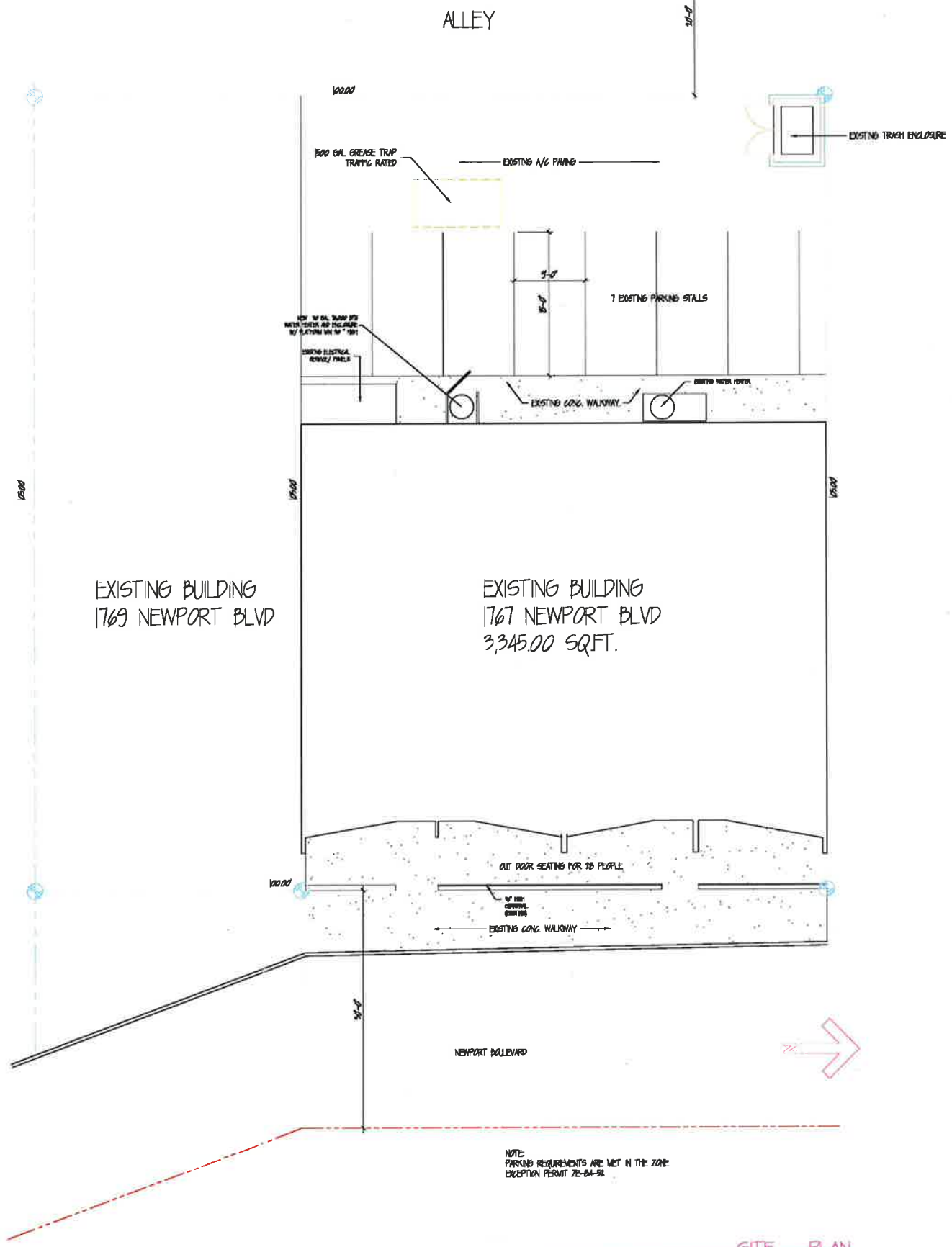
The use of the proposed concepts is substantially compatible with uses in the same general area because our hours of operation and busyness will not conflict with the other properties in our vicinity. Both Fill and Toast will be busier during breakfast and there is only one other restaurant in our strip open during breakfast and it's on the opposite end of the strip. This will in no way cause any jams in traffic nor will it hinder any parking. With Toast being busier for dinner and Fill being busier for dessert, these concepts will again not cause any issues with parking or traffic. Many of the retail shops are either not open at night or are not busy during the nighttime hours. We strongly feel that being open from 7:00 - 9:00 am and 3:00 - 6:00 pm will absolutely not cause any materially detrimental consequences within the center and in fact our concepts are strongly compatible given the other businesses around us.



PARKING AREA PLAN  
SCALE 1/8"=1'-0"



GOOGLE MAP SHOWING PARKING AREA IN ZONE EXCEPTION ZE-84-52 ACCESSIBLE PARKING STALLS FOR AREA UNDER ZONE EXCEPTION



SITE PLAN  
SCALE 1/8"=1'-0"

General Notes



SITE PLAN

| No. | Revision/Issue | Date |
|-----|----------------|------|
|     |                |      |

Firm Name and Address  
**VANDERPOOL & ASSOCIATES**  
 SUSAN VANDERPOOL, ARCHITECT  
 16231 ANNATTO CT.  
 CHINO HILLS, CALIF. 91709  
 SVANDER821@MSN.COM  
 949 810-3437

Project Name and Address  
**BROKEN BREAD-FILL**  
 1767 NEWPORT BLVD.  
 COSTA MESA, CA. 92627

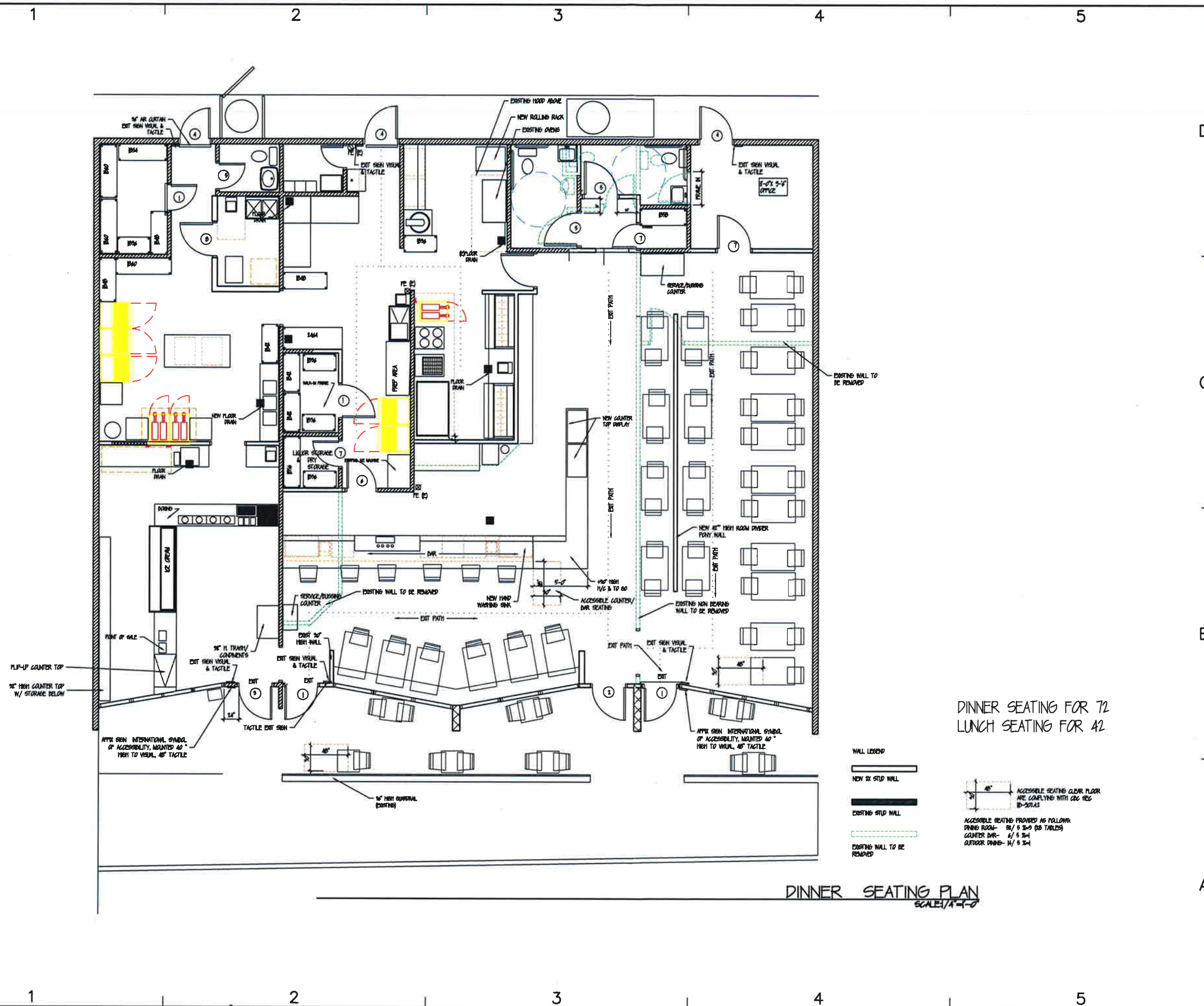
|         |          |
|---------|----------|
| Project | Sheet    |
| Date    | A-01     |
| Scale   | As Noted |

VANDERPOOL & ASSOCIATES  
 SUSAN VANDERPOOL, ARCHITECT  
 16231 ANNATTO CT.  
 CHINO HILLS, CALIF. 91709  
 SVANDERB21@MSN.COM  
 949 610-3437

TOAST-FILL  
 1767 NEWPORT BLVD.  
 COSTA MESA, CA. 92627  
 OWNER

DINNER SEATING PLAN

DINNER SEATING FOR 72  
 LUNCH SEATING FOR 42



- WALL LEGEND
- NEW 2x STUD WALL
- EXISTING STUD WALL
- EXISTING WALL TO BE REMOVED

ACCESSIBLE SEATING CLEAR FLOOR ARE COMPLYING WITH CBC SEC. 105-502.4.3

ACCESSIBLE SEATING PROVIDED AS FOLLOWS:  
 DINING ROOM- 24 / 5 2x4 (20 TABLES)  
 COUNTER BAR- 6 / 5 2x4  
 OUTDOOR DINING- 14 / 5 2x4

DINNER SEATING PLAN  
 SCALE: 1/4"=1'-0"

| MARK          | DATE                | DESCRIPTION     |
|---------------|---------------------|-----------------|
|               |                     |                 |
|               |                     |                 |
|               |                     |                 |
| PROJECT NO.:  |                     |                 |
| CAD DWG FILE: | 00-PLANS13.DWG      |                 |
| DRAWN BY:     | HH                  |                 |
| CHECKED BY:   | HH                  |                 |
| COPYRIGHT:    |                     |                 |
| SHEET TITLE:  | DINNER SEATING PLAN |                 |
| SHEET NO.:    | SEAT-2              | OF TOTAL SHEETS |