

CONDITIONAL USE PERMIT FINDINGS
1775 Ximeno Avenue
Application No. 1712-08 (CUP17-021)
March 15, 2018

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

- 1. THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The project site is located in the General Plan Land Use District (LUD) No. 7 – Mixed Uses. LUD No. 7 intends for “large activity centers allowing employment centers, retail, offices, high density residential, visitor serving facilities and professional service” land uses. The construction and operation of two drive-through lanes for future restaurant and retail uses in a new 10,306-square-foot commercial shopping center will therefore be consistent with the intent of the LUD.

The project is located within the Commercial Regional Highway District (CHW) zone. Drive-through facilities are permitted in the district upon approval of a Conditional Use Permit. Approval of drive-through lanes are subject to applicable special development standards found in Section 21.45.130 of the Zoning Regulations. The single special development standard in place for restaurant establishments with drive-through lanes is a minimum queueing distance of 150 feet, as measured from the forward-most drive-up window to the entrance of the queueing space. The project's two pads with drive-through facilities will all exceed this minimum queueing requirement. Pad 1 will feature a 225-foot drive-through lane and Pad 2 will feature a 299-foot drive-through lane. Approval will thus be consistent with the specific plans governing the site and the special development standards in place for the use.

- 2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND**

The two restaurant and ready-to-eat restaurant pads with drive-through lanes would be located along the frontage of Outer Traffic Circle and Ximeno Avenue. Both drive-through lanes will wrap the building on three sides. The pad's drive-through lane has been designed to accommodate a high volume of vehicles so as to not cause parking lot circulation issues with pedestrians and vehicles. The drive-through lane will be screened from right-of-way view by landscape buffers along both Outer Traffic Circle, Atherton Street, and Ximeno Avenue. All drive-through lanes proposed have been designed to maximize the safe and efficient movement of vehicles and pedestrians through and around their respective sites.

To offset any visual impacts associated with the facilities, enhanced landscaping, including tree plantings, has been provided in the right-of-way. The facilities, as designed, will therefore not be detrimental to the surrounding community.

3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52.

Chapter 21.52 of the Zoning Regulations contains special conditions for fast-food restaurant uses. The following conditions shall apply to fast-food restaurants:

a. THE SITE SHALL NOT ADJOIN OR ABUT A RESIDENTIAL USE DISTRICT;

The Project site is bounded by Outer Traffic Circle to the west, Atherton Street to the North and Ximeno Avenue to the east. To the south of the site are three adjoining properties that are in the Commercial Regional Highway District (CHW) zone. Therefore, the site does not adjoin or abut a residential use district.

b. THE PROPOSED SITE SHALL NOT INTERRUPT OR INTRUDE INTO A CONCENTRATION OF RETAIL USES AND SHALL NOT IMPEDE PEDESTRIAN CIRCULATION BETWEEN RETAIL USES;

The Project's drive-through lanes will not interrupt or intrude into a concentration of retail uses or impede pedestrian circulation between retail uses. The restaurant pads with drive-through lanes are part of the commercial development to be built upon a vacated auto service and repair building. The site has an access easement that runs north and south along the middle of the site and will continue to be utilized as such which will provide a cohesive path of travel connecting vehicles from Atherton Street through to Pacific Coast Highway or vice versa. Pedestrian experience and circulation has been a focal point to the programming of the site which provides a pedestrian pathway connecting both buildings as well as direct access onto Outer Traffic Circle, Atherton Street, and Ximeno Avenue.

c. THE USE SHALL NOT CONSTITUTE A NUISANCE TO THE AREA DUE TO NOISE, LITTER, LOITERING, SMOKE OR ODOR; AND

Conditions of approval addressing noise, loitering, and property maintenance are incorporated to limit adverse effects caused by the proposed drive-through facilities.

d. ORDER BOARD SPEAKERS SHALL BE ORIENTED AND DIRECTED AWAY FROM ADJACENT RESIDENTIAL USES.

Pad 1 is not adjacent to any residential use, however Pad 2 is adjacent to residential condominiums towards the east side of the property. The location of the ordering board speaker will be placed along the southerly side of the building and faced southwest. Both the location and placement of the ordering board speaker will be directed opposite and away from adjacent residential condominiums to the east.

LOT MERGER FINDINGS

1775 Ximeno Avenue
No. 1712-08 (LMG18-002)
March 15, 2018

Pursuant to Section 20.228.030 of the Long Beach Municipal Code (Title 20, Subdivision Ordinance), Lot Mergers shall be required if the Zoning Administrator, at a public hearing, makes any one of the following findings:

1. **ANY ONE OF SUCH CONTIGUOUS PARCELS OR UNITS HELD BY THE SAME OWNER DOES NOT CONFORM TO THE MINIMUM SIZE STANDARDS AS REQUIRED BY THE ZONING REGULATIONS, AND AT LEAST ONE OF SUCH CONTIGUOUS PARCELS IS NOT DEVELOPED WITH A SEPARATE BUILDING FOR WHICH A PERMIT HAS BEEN ISSUED BY THE CITY; OR**

Both lots are in conformance with the minimum 20,000-square-foot lot size required in the Regional Commercial Highway District (CHW) zone and will be merged into a 78,174-square-foot (1.79 acre) lot.

2. **A SINGLE PROJECT IS DEVELOPED ON CONTIGUOUS LOTS IN SUCH A MANNER THAT ONE OR MORE OF THESE RECORDED LOTS COULD BE SOLD SEPARATELY FROM THIS PROJECT BUT WILL RESULT IN REDUCTION OF REQUIRED PARKING, SETBACKS, OPEN SPACES, OR VIOLATION OF OTHER DEVELOPMENT STANDARDS AS SPECIFIED IN THE CURRENT ZONING REGULATIONS.**

As designed, Parcel A will consist of a 4,086-square-foot building designed for a restaurant tenant, along with 400 square feet of outdoor dining. The parking requirement for this use is 43 parking stalls. Parcel B will consist of 6,226-square-foot multi-tenant building with 1,200 square feet of outdoor dining. The parking requirement for this use is 31 parking stalls. If not merged together, Parcel A would have 37 accessible parking stalls and Parcel B will have 30 accessible parking stalls leaving 10 parking stalls along the easterly boundary of Parcel A potentially at risk of being unusable due to the minimum drive aisle required which will encroach into the adjacent Parcel B's side property line. Furthermore, both sites will in turn become deficient in the required parking needed for both developments. The applicant is requesting a Lot Merger to merge both parcels and regain use of the 77 total parking stalls proposed. The site when merged will result in a surplus of three parking stalls as the total number of parking stalls required for the site would be 74 stalls

CONDITIONS OF APPROVAL
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Special Conditions:

1. Approved under this permit are Conditional Use Permit and Lot Merger requests in conjunction with the request to establish two drive-through lanes for future restaurant uses in a new 10,306-square-foot commercial shopping center located at 1775 Ximeno Avenue in the Commercial Regional Highway District.
2. Exterior lighting should clearly illuminate the common areas surrounding the building and parking lot including, but not limited to, the entrance and exit doors, as well as the business address. Lighting shall also be positioned to be shielded away from adjacent properties.
3. Noise levels from the speaker board shall be restricted to acceptable noise levels established for the district.
4. Drive-through lanes shall be restricted to the hours of operation between 4:00 a.m. to 12:00 a.m.

Standard Conditions – Plans, Permits, and Construction:

5. Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes, if any, impacting these conditions of approval, to the satisfaction of the Director of Development Services.
6. All conditions of approval must be printed verbatim on a page or pages within all sets of plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.
7. The plans submitted for plan review must explicitly call out and describe all materials, textures, accents, colors, window, door, planter, and paving details that were approved by the Site Plan Review Committee and/or the Planning Commission. No substantial changes shall be made without prior written approval of the Site Plan Review Committee or the Planning Commission.
8. Prior to the issuance of a building permit, the applicant must depict all utility apparatus, such as, but not limited to, backflow devices and Edison transformers, on both the site plan and the landscape plan. These devices shall not be located in prominent locations within any front, side, or rear yard area that is adjacent to a public street. Furthermore, these devices shall be screened by landscaping or another screening method approved by the Director of Development Services.
9. The Director of Development Services is authorized to approve minor modifications to the approved design plans or to any of the conditions of approval if such

modifications shall not significantly change or alter the approved project. Any major modifications shall be reviewed by the Zoning Administrator, Site Plan Review Committee, or Planning Commission, respectively.

10. Upon plan approval and building permit issuance, the applicant shall submit a reduced-size set of final construction plans for the project file.
11. Any off-site improvements found to be damaged as a result of construction activities related to this project shall be replaced to the satisfaction of the Director of Public Works.
12. Separate building permits are required for signs, fences, retaining walls, flagpoles, and pole-mounted yard lighting foundations.
13. The applicant shall file a separate plan check submittal to the Long Beach Fire Department for review and approval prior to the issuance of a building permit.
14. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.
15. Site development, including landscaping, shall conform to the approved plans on file with the Department of Development Services. At least one set of approved plans containing Planning, Building, Fire, and, if applicable, Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection.
16. For new construction, all landscaped areas shall comply with the State of California's Model Landscape Ordinance. Landscaped areas shall be planted with primarily drought tolerant plant materials and shall be provided with water conserving automatic irrigation systems designed to provide complete and adequate coverage to sustain and promote healthy plant life. The irrigation system shall not cause water to spray or flow across a public sidewalk.
17. All landscaping irrigation systems shall use high efficiency sprinkler nozzles. The models used and flow rates shall be specified on the landscaping plan. For residential-type or small-scale sprinkler systems, sprinkler head flow rates shall not exceed 1.00 GPM and shall be of the rotating type. Where feasible, drip irrigation shall be used instead. If an in-ground irrigation system is to be installed, such system shall be controlled by an automatic self-adjusting weather-based irrigation controller.
18. Permeable pavement shall be utilized where feasible, to the satisfaction of the Director of Development Services. Public right-of-way improvements shall be exempt from this requirement. If the feasibility of using permeable pavement is uncertain, it shall be the developer's responsibility to demonstrate that a given application of permeable pavement is not feasible, to the satisfaction of the Director of Development Services.

19. All outdoor fountains or water features shall utilize water recycling or re-circulation systems. The plans submitted for review shall specifically identify such systems.
20. Low-flow fixtures shall be used for all lavatory faucets, kitchen faucets, showerheads, toilets, and urinals. Toilets may be either low-flow or dual flush. Maximum flow rates for each fixture type shall be as follows: lavatory faucet – 2.75 GPM, kitchen faucet – 2.20 GPM, showerhead – 2.00 GPM, toilet – 1.3 GPF, dual flush toilet – 0.8/1.6 GPF, urinal – 1.0 GPF. Plans submitted for review shall specifically identify such fixtures and flow rates.
21. Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed) unless a modification is granted by the City's Noise Control Officer:
 - a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.;
 - b. Saturday: 9:00 a.m. - 6:00 p.m.; and
 - c. Sundays: not allowed

Standard Conditions – General:

22. This permit and all development rights hereunder shall terminate two years from the effective date of this permit unless construction is commenced or a time extension is granted, based on a written and approved request submitted prior to the expiration of the two-year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
23. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgment Form* supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date).
24. If, for any reason, there is a violation of any of the conditions of this permit or if the uses/operations are found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
25. This approval is required to comply with these conditions of approval as long as the uses are on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of City officials, to verify compliance. The property owner shall reimburse the City for inspection costs.

26. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These development conditions must be recorded with all title conveyance documents at time of closing escrow.
27. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
28. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
29. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants.
30. The operator of the approved uses shall prevent loitering at the project site. Furthermore, the operators must clean the project site parking lot and landscaping areas of trash and debris on a daily basis. Failure to do so shall be grounds for permit revocation. If loitering problems develop, the Director of Development Services may require additional preventative measures, such as but not limited to, additional on-site lighting or private security guards.
31. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
32. Any graffiti found on site must be removed within 24 hours of its appearance.
33. All required utility easements shall be provided to the satisfaction of the concerned department, agency, or utility company.
34. All trash and refuse containers shall be fully screened from public view to the satisfaction of the Director of Development Services.

35. As a condition of any City approval, the applicant shall defend, indemnify, and hold harmless City and its agents, officers, and employees from any claim, action, or proceeding against City or its agents, officers, and employees to attack, set aside, void, or annul the approval of City, concerning the processing of the proposal/entitlement or any action relating to, or arising out of, such approval. At the discretion of the City and with the approval of the City Attorney, a deposit of funds by the applicant may be required in an amount sufficient to cover the anticipated litigation costs.
36. The Department of Public Works submits the following requirements for the proposed development. For additional information regarding off-site improvements, contact the Plan Check Coordinator, Jorge Magana, at (562) 570-6678.

GENERAL REQUIREMENTS

- a. Prior to the start of any on-site/off-site construction, the Subdivider shall submit a construction plan for pedestrian protection, construction area perimeter fencing with custom-printed screen(s), street lane closures, construction staging, shoring excavations and the routing of construction vehicles (excavation hauling, concrete and other deliveries, etc.).
- b. All door openings swinging into public rights-of-way shall be eliminated or set back outside of the public right-of-way, to the satisfaction of the Director of Public Works. Construction plans shall be submitted to the Department of Public Works for all projection encroachments over the public right-of-way (e.g. doors, architectural features, balconies and awnings), to be reviewed for approval as to compliance with California Building Code Chapter 32.
- c. All refuse and recycling receptacles shall be subject to the standards and requirement of Long Beach Municipal Code Chapter 8.60, including number of receptacles, receptacle specifications, and placement for collection.

PUBLIC RIGHT-OF-WAY

- d. The Developer shall construct all off-site improvements needed to provide full American Disability Act (ADA) accessibility compliance within the adjacent public right-of-way to the satisfaction of the Director of Public Works. If a dedication of additional right-of-way is necessary to satisfy ADA requirements during construction plan check, the right-of-way dedication way shall be provided.
- e. The Developer shall dedicate 2 feet for sidewalk widening purposes adjacent to the project site along Ximeno Avenue resulting in a 12-foot-wide sidewalk right-of-way adjacent to the existing bus stop only, to the satisfaction of the Director of Public Works. The 2-foot dedication shall extend from the easterly property line to approximately 60 feet west of the east property line.

- f. The Developer shall dedicate to increase the right-of-way corner cut on the southwest corner of the development site adjacent Ximeno Avenue & Atherton Street to attain a hypotenuse length of 28.28' for ADA purposes.

ENGINEERING BUREAU

- g. The Developer shall remove the concrete edge corner and ground cover from the existing right-of-way area corner cut on the southwest side of the project site and improve the corner cut with sidewalk pavement of Portland cement concrete to the satisfaction of the Director of Public Works.
- h. The Developer shall construct an ADA-compliant curb ramp with truncated domes on the southwest corner of Ximeno Avenue & Atherton Street. In addition, the Developer shall provide for or install truncated domes within the ADA ramp on the northwest corner of Atherton Street and Outer Traffic Circle to the satisfaction of the Director of Public Works.
- i. All major utility service equipment such as electricity transformers, gas meters and back-flow prevention devices must be accommodated on-site, and shall be shown at an early stage of the project plans.
- j. The Developer shall repair the cracked, uplifted and/or deteriorated sections of sidewalk pavement adjacent to the project site along Ximeno Avenue, Atherton Street and Outer Traffic Circle. Sidewalk improvements shall be constructed with Portland cement concrete to the satisfaction of the Director of Public Works. All sidewalk removal limits shall consist of entire panel replacements (from joint line to joint line).
- k. The Developer shall be responsible for the maintenance, repair and replacement of off-site improvements abutting the project boundary during construction of the on-site improvements until final inspection of the on-site improvements by the City. All off-site improvements adjacent to the development site, and/or along the truck delivery route found damaged as a result of construction activities shall be reconstructed or replaced by the Developer to the satisfaction of the Director of Public Works.
- l. The Developer shall provide for the resetting to grade of existing manholes, pullboxes, and meters in conjunction with the required off-site improvements to the satisfaction of the Director of Public Works.
- m. The Developer shall provide for new street trees wells and street trees with root barriers and irrigation along Atherton Street and Ximeno Avenue adjacent to the project site per Long Beach Municipal Code Chapter 21.42.060. The Developer and/or successors shall privately maintain all street trees, landscaping and sprinkler systems required in connection with this project.
- n. The Developer shall contact the Street Tree Division of the Department of Public Works, at (562) 570-2770, prior to beginning the tree planting,

landscaping, and irrigation system work. The Street Tree Division will assist with the size, type and manner in which the street trees are to be installed.

- o. All work within the public right-of-way must be performed by a contractor holding a valid State of California contractor's license and City of Long Beach Business License sufficient to qualify the contractor to do the work. Contractor shall have on file with the City Engineer a Certificate of General Liability insurance and endorsement evidencing minimum City of Long Beach limits of required general liability insurance.
- p. Public improvements shall be constructed in accordance with plans reviewed and approved by the Public Works. Detailed off-site improvement plans shall be prepared by a licensed Civil Engineer, stamped, signed and submitted to the Department of Public Works for approval.

TRAFFIC & TRANSPORTATION BUREAU

- q. The Developer is encouraged to incorporate into the development plan improvements to the existing bus stop on the southeast side of the site with amenities such as an improved bus shelter, architectural seating for bus patrons, and a refuse receptacle. The Developer shall collaborate with Public Works Right-of-way office for conditions and design standards and requirements for the bus stop enhancements.
- r. The Developer shall contact Long Beach Transit prior to the commencement of work to coordinate design and construction issues and to ensure that construction does not interfere with transit bus operations. Contact Manager of Service Development Planning at (562) 591-8753.
- s. The Developer shall remove unused driveways and replace with full-height curb, curb gutter and sidewalk to the satisfaction of the Director of Public Works. The size and configuration of all proposed driveways serving the project site shall be subject to review and approval of the City Traffic Engineer. Driveways greater than 28 feet requires a variance; contact the Traffic and Transportation Bureau at (562) 570-6331 to request additional information regarding driveway construction requirements.
- t. A traffic report must be prepared for this project under the supervision and approved (stamped) by a registered Traffic Engineer in the State of California. In addition, any proposed physical street improvements must include a scaled drawing stamped by a registered civil engineer.
- u. The Developer shall submit Traffic Impact Study to Public Works for affected area.
- v. The Developer shall salvage and reinstall all traffic signs that require temporary removal to accommodate new construction within the public right-of-way. All traffic signs shall be reinstalled to the satisfaction of the City Traffic Engineer.

- w. The Developer shall replace all traffic signs and mounting poles damaged or misplaced as result of construction activities to the satisfaction of the City Traffic Engineer.
- x. The Developer shall repaint all traffic markings obliterated or defaced by construction activities to the satisfaction of the City Traffic Engineer.
- y. All traffic control device installations, including pavement markings within the private parking lot, shall be installed in accordance with the provisions of the California Manual On Uniform Traffic Control Devices (MUTCD), 2012 or current edition (i.e., white parking stalls, stop signs, entry treatment signage, handicapped signage, etc.).
- z. The Developer shall contact the Traffic & Transportation Bureau, at (562) 570-6331, to modify the existing curb marking zones, adjacent to the site.