

January 5, 2024

Darren Machulsky
3508 Woodland Way
Carlsbad, CA 92008

SUBJECT: CD 2023-0014 (DEV02060) – VIGILUCCI'S SEAFOOD & STEAKHOUSE

The City Planner has completed a review of your application for Consistency Determination CD 2023-0014 (APN: 204-253-20-00, 3878 Carlsbad Blvd.), which is a modification to CUP 2021-0008 - Vigilucci's Seafood & Steakhouse, a 4,720-square-foot restaurant, with a 239-square-foot attached outdoor dining patio, a 1,401-square-foot detached outdoor dining patio and on and off-site valet.

After careful consideration of the request, the City Planner has determined that the request meets all of the findings below and **APPROVES** this request. The proposed modifications include:

- Replacement of the black metal railing with 4-foot-8-inch-tall top cantina windows and 3-foot-tall bottom cantina windows on all four sides of the 1,401-square-foot detached outdoor dining patio.

In order for a Discretionary Permit Consistency Determination to be approved, all of the following findings must be made:

- 1) *No project condition, feature, facility or amenity is changed or deleted that had been considered essential to the project's design, quality, safety or function in that **no additional parking or safety features are required for the modification as the outdoor dining patio will remain in the same location and at the same square footage as previously approved under CUP 2021-0008.***
- 2) *The request represents an upgrade in overall design features and or materials and improves upon the project's compatibility with the surrounding neighborhood in that **the design of the outdoor dining patio will improve by replacing the railing with cantina windows. The cantina windows will remain open on the west and south side during business hours (excepting periods of inclement weather).***
- 3) *The proposed revision does not change the density or boundary of the subject property in that **the project site is zoned Commercial Tourist (C-T) and contains no existing dwelling units, nor are any dwelling units proposed as part of this project. Also, the property boundaries will remain as existing.***
- 4) *The proposed revision does not involve the addition of a new land use not shown on the original permit.*
- 5) *The proposed revision does not rearrange the major land uses within the development.*

- 6) *The proposed revision does not create changes of greater than ten percent provided that compliance will be maintained with the applicable development standards of the Carlsbad Municipal Code in that **the project does not propose an increase in height or square footage to the approved detached outdoor dining patio.***
- 7) *The proposed change will not result in any significant environmental impact, and/or require additional mitigation.*
- 8) *The proposed change would not result in any health, safety or welfare impacts in that **parking circulation will not be impacted, as the detached outdoor dining patio will remain in the same location and at the same square footage as previously approved.***
- 9) *There were not any major issues or controversies associated with the original project which would be exacerbated with the proposed change in that **the parking required for the addition of the detached outdoor dining patio will remain the same. Parking requirements will be met through the approved on and off-site valet.***
- 10) *The proposed change would not be readily discernable to the decision makers as being substantially different from the project as originally approved in that **the previously approved detached outdoor dining patio will remain in the same location and at the same square footage. The cantina windows will remain open on the west and south side during business hours (excepting periods of inclement weather).***

Therefore, the City Planner has determined that the application **qualifies** for a consistency determination with the approved permit and **approves** the changes to the project based on Planning Division Administrative Policy No. 35.

NOTICE

Please take **NOTICE** that approval of your project includes the “imposition” of fees, dedications, reservations, or other exactions hereafter collectively referred to for convenience as “fees/exactions.”

You have 90 days from the date of final approval to protest imposition of these fees/exactions. If you protest them, you must follow the protest procedure set forth in Government Code Section 66020(a), and file the protest and any other required information with the City Manager for processing in accordance with Carlsbad Municipal Code Section 3.32.030. Failure to timely follow that procedure will bar any subsequent legal action to attack, review, set aside, void, or annul their imposition.

You are hereby FURTHER NOTIFIED that your right to protest the specified fees/exactions DOES NOT APPLY to water and sewer connection fees and capacity charges, nor planning, zoning, grading or other similar application processing or service fees in connection with this project; NOR DOES IT APPLY to any fees/exactions of which you have previously been given a NOTICE similar to this, or as to which the statute of limitations has previously otherwise expired.

This decision may be appealed by you or any other member of the public to the Planning Commission within ten days of the date of this letter. Appeals must be submitted in writing to the Planning Division at 1635 Faraday Avenue in Carlsbad, along with a payment of \$900. The filing of such appeal within such time limit shall stay the effective date of the order of the City Planner until such time as a final decision

on the appeal is reached. If you have any questions regarding this matter, please feel free to contact your project planner, Lauren Yzaguirre at 442-339-2634 or by email at Lauren.Yzaguirre@carlsbadca.gov.

CITY OF CARLSBAD

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