



NOTICE OF DECISION
Development Services Department

Project Name:	Chick-fil-A Canopies
Request:	Substantial Conformance Determination with a Major Use Permit, Design Review Permit and Coastal Development Permit (Case No. 10-127 MUP/DR/CDP), to allow the construction of two new canopies at an existing Chick-fil-A restaurant.
Discretionary Action:	Substantial Conformance (SUBC)
CEQA Determination:	EXEMPT
DECISION:	APPROVED
Project Number:	SUBC-005885-2023
DSD Number:	2024-130
Location:	194 N. El Camino Real
Community:	New Encinitas
APN:	259-121-34
Applicant:	Kami Hoss, Encinitas Marketplace LLC
Representative:	Eric Scott
Project Planner:	Reb Batzel, Associate Planner, rbatzel@encinitasca.gov
Decision Date:	November 18, 2024
Report Approval:	<input checked="" type="checkbox"/> Andrew Maynard, Principal Planner <input checked="" type="checkbox"/> Esteban Danna, Senior Planner

This document is to certify that the applicant's proposed plans stamped approved by the City of Encinitas on November 18, 2024, have been determined to be in substantial conformance with the originally approved Major Use Permit (MUP), Design Review Permit (DR), and Coastal Development Permit (CDP), pursuant to Resolution No. PC-2011-24 (Case No. 10-127 MUP/DR/CDP) dated September 15, 2011. The original approval included authorization to demolish the existing commercial tenant space and construct a new restaurant with drive-through service and outdoor dining area, new site and landscaping improvements, and one temporary

construction trailer during the construction phase of the project to be removed upon completion of the project.

BACKGROUND:

The subject property is located at 194 N El Camino Real (APN: 259-121-23-00), within an existing commercial marketplace, on the corner of N El Camino Real and Via Molena. The site is within the General Commercial Zone (GC), and General Commercial General Plan Land Use Designation. The property is also located within the Coastal Zone Overlay. The subject property is developed with an existing single-story Chick-fil-A restaurant with drive-through facilities and an outdoor dining area.

The following discretionary or building permit actions have occurred onsite:

- A Major Use Permit, Design Review Permit and Coastal Development Permit (Case No. 10-127 MUP/DR/CDP) was approved on September 15, 2011, for the demolition of a commercial tenant space and construction of a new restaurant with a drive-through use and associated site improvements.
- A Substantial Conformance Determination (Case No. 11-181 SUBC) was approved on November 7, 2011, authorized the construction of an expanded wood trellis to cover the entire outdoor dining area and minor modifications to the landscaping to accommodate the expanded trellis.
- Since 2012, various building permits have been issued onsite including, but not limited to, a tenant improvement, trash enclosure, utility closet, plumbing, electrical permits and signage.

PROJECT SUMMARY/ANALYSIS:

The project proposes the construction of two new canopies. A 605-square-foot arched canopy will provide shade for employees in the drive-through area, located on the east side of the building. The arched canopy is approximately 13-feet in height and made out of a grey waterproof canvas material. A second 760-square-foot canopy will provide shade for customers at the meal pick-up window in the drive-through on the north side of the building. The order meal delivery canopy is 11 feet, 3 inches in height and made out of a grey prefinished metal.

All conditions of Case No. 10-127 MUP/DR/CDP will remain in full force and effect. The applicant will be required to ensure that the fabric of the canopy is maintained at all times.

This determination is based on the following findings for substantial conformance with a Design Review permit pursuant to Encinitas Municipal Code Section 23.08.140:

- 1. No project condition is changed or deleted;**

The proposed modification does not affect the original conditions of approval.

- 2. No feature, facility, or amenity is deleted or substantially altered which had been considered essential to the project's quality, safety, or function by the decision making body;**

The design is consistent with the exterior appearance of the original building approved pursuant to Resolution No. PC-2011-24 (Case No. 10-127 MUP/DR/CDP) dated September 15, 2011. This design maintains the same essential function approved by the previous decision-making body.

3. The area of any residential floor plan is not decreased or increased by more than five percent;

The project site is a commercial shopping center. No change to the floor area is proposed.

4. No additional lots or dwelling units are added;

The project does not propose additional lots or dwelling units.

5. No public or private open space is reduced in area or in its potential for use and enjoyment;

No public or private open space will be reduced or modified by this proposal.

6. The shape and bulk of structures, exterior building materials, landscaping, parking and access are substantially in conformance with the spirit and intent of the Design Review Permit decision;

The project still maintains the same aesthetic characteristics and architectural style as originally approved, whereby the spirit and intent of the original Design Review Permit and Coastal Development Permit is maintained.

7. The grading plan will not increase or decrease the final grade on any part of the site by more than three feet over or under the plan approved by the design review decision, unless the Director finds that: (a) the design is substantially altered by the grading change, (b) the design review approval specifically prohibits variation to the elevation of the pads, or (c) the change in pad elevation impacts surrounding views, and/or substantially increases the bulk and mass of a building; and

No grading is proposed.

8. No significant changes are made which, in the opinion of the Development Services Department should be reviewed by the body which approved the original application;

The proposed project will maintain the spirit and intent of the originally approved entitlement. Based on the discussion above, the Development Services Department finds that there are no significant changes that would require submittal of a discretionary permit modification.

This determination is based on the following findings for substantial conformance with a Use Permit pursuant to Encinitas Municipal Code Section 30.74.105:

1. No project condition is changed or deleted;

The proposed modification does not affect the original conditions of approval.

- 2. No feature, facility, or amenity is deleted or substantially altered which had been considered essential to the project's quality, safety, or function by the decision making body;**

The design is consistent with the exterior appearance of the original building approved pursuant to Resolution No. PC-2011-24 (Case No. 10-127 MUP/DR/CDP) dated September 15, 2011. This design maintains the same essential function approved by the previous decision-making body.

- 3. No additional lots or dwelling units are added;**

No additional lots or dwelling units are proposed to be added to the project.

- 4. No private or public open space is reduced in area or in its potential for use and enjoyment;**

No private or public open space area exists on the subject property.

- 5. The shape and bulk of structures, exterior building materials, landscaping, parking and access are substantially in conformance with the spirit and intent of the Use Permit decision;**

The project still maintains the same aesthetic characteristics and architectural style as originally approved, whereby the spirit and intent of the original Design Review Permit and Coastal Development Permit is maintained.

- 6. The grading plan will not increase or decrease the final grade on any part of the site by more than three (3) feet over or under the plan approved by the Use Permit decision, unless the Director finds that the project is substantially altered by the grading change; and**

No grading is proposed.

- 7. No significant changes are made which, in the opinion of the Director, should be reviewed by the body which approved the original application.**


The proposed project will maintain the spirit and intent of the originally approved entitlement. Based on the discussion above, the Development Services Department finds that there are no significant changes that would require submittal of a discretionary permit modification.

Environmental Status: The project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 – Existing Facilities. CEQA Guidelines Section 15301 exempts from environmental review the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structures, which involve negligible or no expansion. The project proposes minor alterations to the existing Chick-fil-A restaurant, which meets the requirements for this exemption, and none of the exceptions in CEQA Guidelines 15300.2 apply, therefore, the project may rely on the categorical exemption and is exempt from environmental review.

ITEM NAME: CHICK-FIL-A CANOPIES
PROJECT NUMBER: SUBC-005885-2023
DATE: NOVEMBER 18, 2024

This determination shall be valid 10 days from the date of this approval letter, during which time any aggrieved person may, upon payment of necessary fees, file an appeal. Additional permits, including Building Permits, may be required by the Development Services Department or other City Departments. It is the applicant's responsibility to obtain all necessary permits required for the type of project proposed. The applicant may proceed through the plan check process during the appeal period at his/her own risk; **plan check fees are non-refundable**. Any filing of an appeal will suspend this action as well as any processing of permits in reliance thereon in accordance with Encinitas Municipal Code Section 1.12.020(D)(1) until such time as an action is taken on the appeal.

If you have any questions regarding this determination, please contact Reb Batzel, Associate Planner, at (760) 943-2233 or by email at rbatzel@encinitasca.gov; or contact the Development Services Department, 505 South Vulcan Avenue, Encinitas, CA 92024 at (760) 633-2710 or by email at planning@encinitasca.gov.

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Andrew Maynard
Principal Planner

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to msalmon@cityofencinitas.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

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- ii. send us an email to msalmon@cityofencinitas.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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